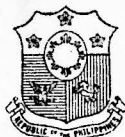


Official Gazette



REPUBLIC OF THE PHILIPPINES

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THE OFFICIAL MONTH IN REVIEW

AT a formal ceremony in Malacañan on the afternoon of October 22, President Manuel Roxas, on behalf of the Republic of the Philippines, and Ambassador Paul V. McNutt, on behalf of the United States, signed the exchange of ratifications of the Treaty of General Relations. This treaty covers the basic relations between the two Governments and takes the place of the provisional treaty signed at the independence-day ceremonies last July 4 and later ratified by the Senates of both countries.

On receiving Ambassador McNutt for the signing ceremony, President Roxas said that the treaty was "a testament of faith of the American people" in the Filipino people and their future and a basic charter of friendship between the Philippine and the American Governments. Replying to President Roxas' remarks, Ambassador McNutt declared that the treaty "is the proof, to ourselves and to the world, that the will of the peoples, as expressed by their legislatures, prevails." "Two sovereign nations," he added, "by decision of their duly elected legislators and Chief Executives, have agreed to live together as close relatives within the family of nations."

Present at the ceremony were high officials of the Philippine Government including Vice President and Secretary of Foreign Affairs Elpidio Quirino, Undersecretary of Foreign Affairs Bernabe Africa, and Chief of the Executive Office Emilio Abello, and members of Ambassador McNutt's staff composed of Minister Nathaniel Davis, E. D. Hester, economic adviser, Julius C. C. Edelstein, director of public information, and aides.

(See complete remarks of President Roxas and Ambassador McNutt under "Historical Papers and Documents" in this issue.)

FOLLOWING the signing of the exchange of ratifications of the Treaty of General Relations between the Republic of the Philippines and the United States on October 22, the President issued a proclamation (No. 11) making public the provisions of both the treaty and the protocol accompanying it so as to enable all the citizens of the Republic to observe and fulfill them with good faith.

(See text of proclamation under "Executive Orders, Proclamations and Administrative Orders" in this issue.)

THE President on October 29 signed the three bills providing for the establishment and capitalization of the Rehabilitation Finance Corporation. Upon signing the President declared that with the approval of the measures "the Government is moving forward with its program to overcome as much as possible the inherent inertia which is holding back full-scale rehabilitation and reconstruction." He explained that the Rehabilitation Finance Corporation is designed to provide credit facilities for all who wish to undertake the rehabilitation of war-destroyed enterprises and the expansion of the country's industrial potential. Its whole purpose is to permit the people the greatest possible opportunity and to give them every encouragement to participate in the national economic life on every front and in every field. Every inducement, the President assured, will be given to Filipinos to take advantage of the facilities made available by the establishment of the corporation.

(See complete statement of the President under "Historical Papers and Documents" in this issue.)

THE Honorable Chen Chih-Ping, of the Republic of China, and the Honorable Harry Linton Foulds, of the British Empire, Envoys Extraordinary and Ministers Plenipotentiary of their respective countries to the Philippines, presented their credentials to President Roxas at separate ceremonies held at Malacañan during the month.

Minister Chen was received by the President on the afternoon of October 3. On handing his letter of credence to the Chief Executive, the Chinese envoy declared that he drew great satisfaction from coming into close contact with the Filipino people

EXECUTIVE ORDERS, PROCLAMATIONS AND ADMINISTRATIVE ORDERS

MALACAÑAN PALACE •
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER No. 19

ORGANIZING A CERTAIN PORTION OF THE MUNICIPALITY OF VALLEHERMOSO, PROVINCE OF ORIENTAL NEGROS, INTO AN INDEPENDENT MUNICIPALITY UNDER THE NAME OF CANLAON.

Upon the recommendation of the Provincial Board of Oriental Negros and the Secretary of the Interior, and pursuant to the provisions of section sixty-eight of the Revised Administrative Code, the twenty-four municipalities of the Province of Oriental Negros, as established by section thirty-eight of the Revised Administrative Code, are hereby increased to twenty-five, by segregating from the municipality of Vallehermoso the barrios of Panubigan, Linothangan, Masolog, and Budlasan with all the sitios composing these barrios, and the sitio of Lucap of the barrio of Malaiba, and organizing the same into an independent municipality under the name of Canlaon, with the seat of government in the sitio of Mabigo, barrio of Panubigan.

The boundary line between the municipality of Canlaon and the municipality of Vallehermoso, outside the area now known to be claimed by both the municipality of Vallehermoso, Oriental Negros and the municipality of San Carlos, Occidental Negros, shall be as follows:

"From a concrete boundary monument which is corner No. 721 of Northern Negros Forest Reserve, Proclamation No. 798, April 29, 1935, southeast to a point, identical to Bureau of Forestry concrete monument marked N. N. F. R. No. 21; thence southeast to a point, identical to Bureau of Forestry concrete monument marked N. N. F. R. No. 20; thence S., 18° 30' W., to a point identical to the peak of Binaliewan Mountain at the intersection of this line with the boundary line between Vallehermoso and Guijulongan."

The municipality of Canlaon as herein organized shall consist of the barrios of Panubigan, Linothangan, Masolog and Budlasan, with all the sitios composing said barrios, and the sitio of Lucap of the barrio of Malaiba.

The municipality of Vallehermoso shall consist of its present territory, minus the territory comprised in the municipality of Canlaon.

The organization herein made shall take effect as soon as the mayor, vice-mayor and a majority of the councilors thereof shall have been appointed and qualified.

Done at the City of Manila, this 11th day of October in the year of Our Lord, nineteen hundred and forty-six and of the Independence of the Philippines, the first.

MANUEL ROXAS
President of the Philippines

By the President:

EMILIO ABELLO
Chief of the Executive Office

MALACAÑAN PALACE
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER No. 20

AMENDING EXECUTIVE ORDER NUMBERED FOUR,
DATED JULY ELEVEN, NINETEEN HUNDRED
AND FORTY-SIX ENTITLED "FIXING THE SAL-
ARIES AND ALLOWANCES OF OFFICERS AND
ENLISTED MEN OF THE PHILIPPINE ARMY."

By virtue of the powers vested in me by law, I, Manuel Roxas, President of the Philippines, do hereby amend Executive Order No. 4, dated July 11, 1936, entitled "Fixing the salaries and allowances of officers and enlisted men of the Philippine Army," so as to include therein the salaries and allowances of officers and enlisted men of the Philippine Army Band, as follows:

Rank	Monthly rate	Rental allowance per month when not occupying public quarters
Master sergeant (Assistant conductor)	₱120.00	₱16.00
Sergeant (Soloist professor)	95.00	.....
Corporal (First-class musician)	75.00	.....
Private (Second-class musician)	65.00	.....

This Order shall take effect as of July 1, 1946.

Done at the City of Manila, this 15th day of October, in the year of Our Lord, nineteen hundred and forty-six, and of the Independence of the Philippines, the first.

MANUEL ROXAS
President of the Philippines

By the President:

EMILIO ABELLO
Chief of the Executive Office

MALACAÑAN PALACE
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER No. 21

FIXING WEDNESDAY, JANUARY 1, 1947,
AS CENSUS DAY

Whereas, Republic Act No. 36, entitled "Census Act of Nineteen Hundred Forty-Six," provides that the President of the Philippines shall, by executive order, proclaim any day selected for census-taking as Census Day;

NOW, THEREFORE, I, Manuel Roxas, President of the Philippines, pursuant to the provisions of Republic Act No. 36, do hereby designate Wednesday, January 1, 1947, as Census Day, on which date the enumeration of the population and the collection of all pertinent social and economic data throughout the Philippines shall begin and proceed on consecutive days thereafter, including Sundays and holidays, until completed.

In accordance with the provisions of said Republic Act No. 36 that "the supervisors, enumerators and other subordinate personnel for the census work shall be drafted mostly from the personnel of the Government, including provincial, city and municipal officials and employees, school teachers, field forces of the different bureaus and offices, city and municipal police forces, and members of the Philippine Army," all Heads of Departments under the Executive branch of the Government are hereby enjoined to authorize and instruct all bureaus and offices respectively under them and provincial, city and municipal officials and Army commanders concerned to make available for purposes of census-taking, the services of such of their personnel as shall be requisitioned for the purpose. All such government personnel as will be drafted for the census work shall, unless otherwise directed by a superior census authority, render service in the barrio, poblacion, municipality, city or province where they are actually working.

Done at the City of Manila, this 15th day of October, in the year of Our Lord, nineteen hundred and forty-six, and of the Independence of the Philippines, the first.

MANUEL ROXAS
President of the Philippines

By the President:

EMILIO ABELLO
Chief of the Executive Office

MALACAÑAN PALACE
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER No. 22

AMENDING PARAGRAPH (d), SECTION 5, OF EXECUTIVE ORDER NO. 6, DATED JULY 17, 1946, ENTITLED "PROMULGATING RULES AND REGULATIONS GOVERNING THE CONSTRUCTION, INSTALLATION AND OPERATION OF RADIO TRANSMITTING STATIONS, RADIO RECEIVING STATIONS FOR COMMERCIAL PURPOSES OF TELEVISION OR RADIO BROADCASTING STATIONS UNDER TEMPORARY PERMITS ISSUED BY THE PRESIDENT."

Pursuant to the powers vested in me by law, I, Manuel Roxas, President of the Philippines, do hereby order:

SECTION 1. Paragraph (d), section 5, of Executive Order No. 6, dated July 17, 1946, entitled "Promulgating rules and regulations governing the construction, installation and operation of radio transmitting stations, radio receiving stations for commercial purposes of television or radio broadcasting stations under temporary permits issued by the President," is hereby amended to read as follows:

"(d) The permittee shall pay the necessary radio station construction permit and station license fees as required by Act No. 3846, as amended, otherwise known as the Radio Control Law, and shall be liable to pay the same taxes on its real property as other persons or corporations are now or hereafter may be required by law to pay. In addition to the fees above mentioned, the following fees shall be paid by the applicant or permittee:

1. For filing an application for temporary permit to construct, install, establish and operate a radio station ₱50.00
2. For the issuance of a temporary permit to construct, install, establish and operate a radio station ₱100.00"

SEC. 2. All holders of temporary permits heretofore issued by the Radio Permit Committee shall be subject to the payment of the fees prescribed in paragraph (d), section 5, of Executive Order No. 6, dated July 17, 1946, as amended by section 1 hereof.

SEC. 3. This Order shall take effect as of August 26, 1946.

Done at the City of Manila, this 16th day of October, in the year of Our Lord, nineteen hundred and forty-six, and of the Independence of the Philippines, the first.

MANUEL ROXAS
President of the Philippines

By the President:

EMILIO ABELLO
Chief of the Executive Office

MALACANAN PALACE
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

PROCLAMATION No. 11

MAKING PUBLIC THE TREATY OF GENERAL RELATIONS BETWEEN THE REPUBLIC OF THE PHILIPPINES AND THE UNITED STATES OF AMERICA.

WHEREAS a treaty of general relations between the Republic of the Philippines and the United States of America and a protocol to accompany that treaty were signed at Manila, Philippines, on the fourth day of July, one thousand nine hundred and forty-six, the originals of which treaty and protocol are word for word as follows:

TREATY OF GENERAL RELATIONS BETWEEN THE REPUBLIC OF THE PHILIPPINES AND THE UNITED STATES OF AMERICA.

The Republic of the Philippines and the United States of America, being animated by the desire to cement the relations of close and long friendship existing between the two countries, and to provide for the recognition of the independence of the Republic of the Philippines as of July 4, 1946, and the relinquishment of American sovereignty over the Philippine Islands, have agreed upon the following articles:

ARTICLE I

The United States of America agrees to withdraw and surrender, and does hereby withdraw and surrender, all rights of possession, supervision, jurisdiction, control or sovereignty existing and exercised by the United States of America in and over the territory and the people of the Philippine Islands, except the use of such bases, necessary appurtenances to such bases, and the rights incident thereto, as the United States of America, by agreement with the Republic of the Philippines may deem necessary to retain for the mutual protection of the Republic of the Philippines and of the United States of America. The United States of America further agrees to recognize, and does hereby recognize, the independence of the Republic of the Philippines as a separate self-governing nation and to acknowledge, and does hereby acknowledge, the authority and control over the same of the Government instituted by the people thereof, under the Constitution of the Republic of the Philippines.

ARTICLE II

The diplomatic representatives of each country shall enjoy in the territories of the other the privileges and immunities derived from generally recognized international law and usage. The consular representatives of each country, duly provided with exequatur, will be permitted to reside in the territories of the other in the places wherein consular representatives are by local laws permitted to reside; they shall enjoy the honorary privileges and the immuni-

ties accorded to such officers by general international usage; and they shall not be treated in a manner less favorable than similar officers of any other foreign country.

ARTICLE III

Pending the final establishment of the requisite Philippine Foreign Service establishments abroad, the Republic of the Philippines and the United States of America agree that at the request of the Republic of the Philippines the United States of America will endeavor, in so far as it may be practicable, to represent through its Foreign Service the interests of the Republic of the Philippines in countries where there is no Philippine representation. The two countries further agree that any such arrangements are to be subject to termination when in the judgment of either country such arrangements are no longer necessary.

ARTICLE IV

The Republic of the Philippines agrees to assume, and does hereby assume, all the debts and liabilities of the Philippine Islands, its provinces, cities, municipalities and instrumentalities, which shall be valid and subsisting on the date hereof. The Republic of the Philippines will make adequate provision for the necessary funds for the payment of interest on and principal of bonds issued prior to May 1, 1934, under authority of an Act of Congress of the United States of America by the Philippine Islands, or any province, city or municipality therein, and such obligations shall be a first lien on the taxes collected in the Philippines.

ARTICLE V

The Republic of the Philippines and the United States of America agree that all cases at law concerning the Government and people of the Philippines which, in accordance with Section 7 (6) of the Independence Act of 1934, are pending before the Supreme Court of the United States of America at the date of the granting of the independence of the Republic of the Philippines shall continue to be subject to the review of the Supreme Court of the United States of America for such period of time after independence as may be necessary to effectuate the disposition of the cases at hand. The contracting parties also agree that following the disposition of such cases the Supreme Court of the United States of America will cease to have the right of review of cases originating in the Philippine Islands.

ARTICLE VI

In so far as they are not covered by existing legislation, all claims of the Government of the United States of America or its nationals against the Government of the Republic of the Philippines and all claims of the Government of the Republic of the Philippines and its nationals against the Government of the United States of America, shall be promptly adjusted and settled. The property rights of the Republic of the Philippines and the United States of America, shall be promptly adjusted and settled by mutual agreement, and all existing property rights of the citizens and corporations of the Republic of the Philippines in the United States of America and of citizens and corporations of the United States of America in the Republic of the Philippines shall be acknowledged, respected and safeguarded

to the same extent as property rights of citizens and corporations of the United States of America and of the Republic of the Philippines, respectively. Both Governments shall designate representatives who may in concert agree on measures best calculated to effect a satisfactory and expeditious disposal of such claims as may not be covered by existing legislation.

ARTICLE VII

The Republic of the Philippines agrees to assume all continuing obligations assumed by the United States of America under the Treaty of Paris between the United States of America and Spain concluded at Paris on the 10th of December, 1898, by which the Philippine Islands were ceded to the United States of America, and under the Treaty between the United States of America and Spain concluded at Washington on the 7th day of November, 1900.

ARTICLE VIII

This Treaty shall enter into force on the exchange of instruments of ratification.

This Treaty shall be submitted for ratification in accordance with the constitutional procedures of the Republic of the Philippines and of the United States of America and instruments of ratification shall be exchanged and deposited at Manila.

Signed at Manila, this fourth day of July, one thousand nine hundred and forty-six.

For the Government of the Republic of the Philippines:

(Sgd.) MANUEL ROXAS

For the Government of the United States of America:

(Sgd.) PAUL V. McNUTT

PROTOCOL

TO ACCOMPANY THE TREATY OF GENERAL RELATIONS BETWEEN THE REPUBLIC OF THE PHILIPPINES AND THE UNITED STATES OF AMERICA
SIGNED AT MANILA ON THE FOURTH DAY OF JULY, 1946.

It is understood and agreed by the High Contracting Parties that this Treaty is for the purpose of recognizing the independence of the Republic of the Philippines and for the maintenance of close and harmonious relations between the two Governments.

It is understood and agreed that this Treaty does not attempt to regulate the details of arrangements between the two Governments for their mutual defense; for the establishment, termination or regulation of the rights and duties of the two countries, each with respect to the other, in the settlement of claims, as to the ownership or control of real or personal property, or as to the carrying out of provisions of law of either country; or for the settlement of rights or claims of citizens or corporations of either country with respect to or against the other.

It is understood and agreed that the conclusion and entrance into force of this Treaty is not exclusive of further treaties and executive agreements providing for the specific regulation of matters broadly covered herein.

It is understood and agreed that pending final ratification of this Treaty, the provisions of Articles II and III shall be observed by executive agreement.

Signed at Manila, this fourth day of July, one thousand nine hundred and forty-six.

For the Government of the Republic of the Philippines:

(Sgd.) MANUEL ROXAS

For the Government of the United States of America:

(Sgd.) PAUL V. McNUTT

WHEREAS the Senate of the Republic of the Philippines by its Resolution No. 11, of August 9, 1946, did concur in the approval of the said treaty and protocol in accordance with the Constitution of the Philippines;

WHEREAS the said treaty and protocol have been duly ratified by the President of the Philippines in pursuance of the aforesaid concurrence of the Senate of the Republic of the Philippines;

WHEREAS the said treaty and protocol have been duly ratified on behalf of the Government of the United States of America;

AND WHEREAS, the instruments of ratification of the said treaty and protocol of the two Governments were exchanged at Manila, Philippines, on the twenty-second of October, one thousand nine hundred and forty-six;

NOW, THEREFORE, be it known that I, Manuel Roxas, President of the Philippines, do hereby proclaim and make public the said treaty of general relations and accompanying protocol to the end that the same and every article and clause thereof may be observed and fulfilled with good faith by the Republic of the Philippines and the citizens thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the Republic of the Philippines to be affixed.

Done at the City of Manila, Philippines, this 22nd day of October, in the year of Our Lord, nineteen hundred and forty-six, and of the Independence of the Philippines, the first.

MANUEL ROXAS

President of the Philippines

By the President:

EMILIO ABELLO

Chief of the Executive Office

MALACAÑAN PALACE
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

PROCLAMATION No. 12

PUBLISHING THE VALUES OF CERTAIN FOREIGN
CURRENCIES FOR THE PURPOSE OF THE AS-
SESSMENT AND COLLECTION OF DUTY.

Pursuant to the authority vested in me by Republic Act No. 77 and upon recommendation of the Undersecretary of Finance, the values of certain foreign currencies are hereby published, for the purposes of said Republic Act No. 77, as follows:

Country	Unit	Value in Philippine currency	Equivalent in U. S. currency
Argentina	Peso	₱0.595466	\$0.297733
Australia	Pound	6.426226	3.213113
Belgium	Franc .....	.045608	.022804
Brazil	Cruzeiro .....	.108106	.054053
Canada	Dollar	2.000000	1.000000
Colombia	Peso	1.140132	.570066
Czechoslovakia	Koruna .....	.040120	.020060
Denmark	Krone .....	.417530	.208765
England	Pound Sterling	8.065156	4.032578
France	Franc .....	.016818	.008409
India (British)	Rupee .....	.603134	.301567
Italy	Lira .....	.008868	.004434
Mexico	Peso .....	.411506	.205753
Netherlands	Guilder .....	.755786	.377893
Newfoundland	Dollar	2.000000	1.000000
New Zealand	Pound	6.452000	3.226000
Norway	Krone .....	.403224	.201612
Portugal	Escudo .....	.081002	.040501
Spain	Peseta .....	.182648	.091324
Sweden	Krona .....	.556428	.278214
Switzerland	Franc .....	.467258	.233629
Union of South Africa	Pound	8.010000	4.005000
Uruguay	Peso	1.316600	.658300

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the Republic of the Philippines to be affixed.

Done at the City of Manila, this 30th day of October, in the year of Our Lord, nineteen hundred and forty-six, and of the Independence of the Philippines, the first.

MANUEL ROXAS

President of the Philippines

By the President:

EMILIO ABELLO

Chief of the Executive Office

MALACAÑAN PALACE
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER No. 11

CREATING GUERRILLA AMNESTY COMMISSIONS

Pursuant to Proclamation No. 8 dated September 7, 1946, duly concurred in by the Congress of the Philippines, and by virtue of the powers vested in me by law, I, Manuel Roxas, President of the Philippines, do hereby create and appoint fourteen Guerrilla Amnesty Commissions consisting of the following Judges of First Instance to take cognizance of the cases in the provinces respectively assigned to them:

FIRST COMMISSION: Judges Ceferino Hilario, Manuel Arranz, Eulogio de Guzman and Bernardino Quitariano—for the Provinces of Cagayan, Isabela, Nueva Vizcaya and Batangas;

SECOND COMMISSION: Judges Simeon Ramos, Ceferino de los Santos, Patricio Ceniza and Higinio de Guia—for the Provinces of Ilocos Norte, Ilocos Sur, Abra and La Union;

THIRD COMMISSION: Judges Conrado Sanchez, Sotero Rodas, Antonio Cañizares and Rafael Amparo—for the Provinces of Mountain Province and Baguio, Pangasinan, Zambales and Nueva Ecija;

FOURTH COMMISSION: Judges Francisco Jose, Angel H. Mojica, Basilio Bautista and Bonifacio Ysip—for the Provinces of Tarlac, Pampanga, Bataan and Bulacan;

FIFTH COMMISSION: Judges Alfonso Felix, Dionisio de Leon and Francisco Alfonso—for the City of Manila;

SIXTH COMMISSION: Judges Emilio Peña, Jose Gutierrez David and Pascual Santos—for the Provinces of Rizal, Cavite and Palawan;

SEVENTH COMMISSION: Judges Fernando Jugo, Mariano de la Rosa and Buenaventura Ocampo—for cases from the different provinces and cities now pending appeal in the Supreme Court;

EIGHTH COMMISSION: Judges Felix Bautista Angelo, Ramon R. San Jose, Oscar Castelo and Meynardo Farol—for the Provinces of Laguna (including San Pablo City), Quezon, Batangas, Mindoro and Marinduque;

NINTH COMMISSION: Judges Jose Surtida, Catalino Buenaventura, Hermogenes Caluag and Jose R. de Venecia—for the Provinces of Camarines Sur, Camarines Norte, Albay, Catanduanes, Sorsogon and Masbate;

TENTH COMMISSION: Judges Fernando Hernandez, Manuel Blanco, Querube Macalintal and Edmundo Piccio—for the Provinces of Capiz, Iloilo, Antique and Romblon;

ELEVENTH COMMISSION: Judges Francisco Arellano, Gregorio Narvasa, Segundo Moscoso and Felix Martinez—for the Provinces of Occidental Negros, Oriental Negros, Siquijor and Cebu;

TWELFTH COMMISSION: Judges Fidel Fernandez, Mariano C. Melendres, Manuel Laserna and Hermogenes Concepcion—for the Provinces of Samar, Leyte and Bohol;

THIRTEENTH COMMISSION: Judges Froilan Bayona, Pedro Villamor, Anatolio Mañalac and Perfecto Palacio—for the Provinces of Surigao, Agusan, Occidental Misamis, Oriental Misamis, Bukidnon and Lanao;

FOURTEENTH COMMISSION: Judges Pablo Villalobos, Felicísimo Ocampo, Enrique Fernandez and Antonio Belmonte—for the Provinces of Zamboanga, Sulu, Davao and Cotabato.

With the exception of the Judges of the Fifth, Sixth and Seventh Commissions, no Judge shall take part in the deliberation of his Commission upon the cases in the province to which he has been appointed or assigned as Judge. No Judge of First Instance shall try and decide any case which he may have previously passed upon as a member of the Commission.

The Provincial Fiscal of each province shall submit to the corresponding Amnesty Commission all the cases pending (1) in the different Justice of the Peace Courts, (2) in his office, and (3) in the Court of First Instance, in which the accused claim the benefit of Amnesty Proclamation No. 8. The Commission shall examine the facts and circumstances surrounding each case, and, if necessary or if requested by either or both of the interested parties, shall conduct summary hearings of witnesses both for the complainants and the accused. The decision or resolution on a given case need not state the facts in detail but merely and briefly the grounds upon which it is based. Cases already decided by the Court of First Instance but not yet elevated on appeal shall be passed upon and decided by the Commission. Cases pending appeal shall be passed upon and decided by the Seventh Commission. Any reasonable doubt as to whether a given case falls within the proclamation shall be resolved in favor of the accused.

Such stenographers and employees of the Court of First Instance as may be needed by the Commission shall be made available to it by the Judge of such court. The members of the Commission and their employees will be entitled to per diems and traveling expenses from the appropriations of the Department of Justice.

Any vacancy in any of the Commissions due to the death, sickness, resignation or transfer of any of the judges herein named, may be filled by the Secretary of Justice by assigning another judge thereto.

The different Commissions hereby created shall begin to function as soon as practicable.

The Secretary of Justice is hereby authorized to promulgate rules and regulations for the purpose of expediting the work of the Commissions.

Done at the City of Manila, this 2nd day of October, in the year of Our Lord, nineteen hundred and forty-six, and of the Independence of the Philippines, the first.

MANUEL ROXAS

President of the Philippines

By the President:

EMILIO ABELLO

Chief of the Executive Office

[ADMINISTRATIVE ORDER No. 12]

(To be published upon issuance)

MALACAÑAN PALACE

MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER No. 13

CREATING A COMMISSION, TO BE KNOWN AS THE PHILIPPINE PORT COMMISSION, TO PERFORM THE FUNCTIONS OF THE COMMITTEE CREATED UNDER ADMINISTRATIVE ORDER No. 35, DATED MAY 29, 1946, AND TO ACT AS THE AGENCY OF THE REPUBLIC OF THE PHILIPPINES IN CONNECTION WITH THE REHABILITATION, IMPROVEMENT AND CONSTRUCTION OF PORT AND HARBOR FACILITIES IN THE PHILIPPINES UNDER SECTION 303(a) OF THE PHILIPPINE REHABILITATION ACT OF 1946.

WHEREAS, under section 303(a) of the Philippine Rehabilitation Act of 1946, the program for the rehabilitation, improvement and construction of port and harbor facilities in the Philippines will be carried out after consultation with the Philippine Government; and

WHEREAS, it is convenient that an agency of the Republic of the Philippines be specifically created to act as liaison between our Government and the agencies of the Government of the United States of America charged with the duty of carrying out the program above referred to;

NOW, THEREFORE, I, Manuel Roxas, President of the Philippines, by virtue of the powers vested in me by law, do hereby reconstitute the Committee created under Adminis-

trative Order No. 35, dated May 29, 1946, into a Philippine Port Commission, to be composed of the following:

The Undersecretary of Public Works and Communications	Chairman
The Collector of Customs	Vice-Chairman
Mr. Vicente Fragante	Member
Major Enrique Razon	Member
Commander Chick Parsons, Manager, Luzon Stevedoring Company	Member
Mr. Jose Fernandez, Managing Director, Compañía Marítima	Member
Mr. L. B. Jepson, General Agent, American President Lines, Ltd.	Member

The Philippine Port Commission shall perform the functions vested in the Committee created under Administrative Order No. 35, dated May 29, 1946, and, in addition, shall be the agency of the Republic of the Philippines to consult and deal with the agencies of the Government of the United States of America charged with the duty of carrying out the program for the rehabilitation, improvement, and construction of port and harbor facilities in the Philippines as provided in section 303(a) of the Philippine Rehabilitation Act of 1946.

The departments, bureaus or offices concerned shall furnish to the Commission such technical and clerical assistance, data, and information as it may require in connection with the performance of its duties and the Commission shall have access to and the right to examine any books, documents, papers or records of said departments, bureaus, or offices.

Done in the City of Manila, this 12th day of October, in the year of Our Lord nineteen hundred and forty-six, and of the Independence of the Philippines, the first.

MANUEL ROXAS
President of the Philippines

By the President:

EMILIO ABELLO
Chief of the Executive Office

MALACAÑAN PALACE
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER No. 14

CREATING A REORGANIZATION COMMITTEE TO
ASSIST THE PRESIDENT IN THE REORGANI-
ZATION OF THE DIFFERENT EXECUTIVE DE-

PARTMENTS, BUREAUS, OFFICES, AGENCIES,
AND OTHER INSTRUMENTALITIES OF THE
GOVERNMENT, INCLUDING THE CORPORA-
TIONS OWNED OR CONTROLLED BY IT, PUR-
SUANT TO THE PROVISIONS OF REPUBLIC
ACT NO. 51.

WHEREAS, under the provisions of Republic Act No. 51, the President has been authorized to reorganize within one year the different executive departments, bureaus, offices, agencies and other instrumentalities of the Government, including the corporations owned or controlled by it; and

WHEREAS, it is urgently necessary for the purpose of promoting simplicity, economy and efficiency in the operation of the Government that the reorganization contemplated in said Act be carried out as expeditiously as possible;

NOW, THEREFORE, I, Manuel Roxas, President of the Philippines, by virtue of the powers vested in me by law, do hereby create a Reorganization Committee which shall be composed of the following:

Commissioner of the Budget	Chairman
Auditor General	Member
Commissioner of Civil Service	Member
Prof. Vidal Tan	Member
Mr. Cornelio Balmaceda	Member
Dr. Manuel Lim	Member
Mr. Baltazar G. Cuyugan	Member
Mr. Faustino Sy-Changco	Secretary

Within the limits of the total authorized appropriation for the fiscal year 1947, the Committee, after making a factual survey of the organizational set-up of the Government, shall recommend such reforms and changes in the different executive departments, bureaus, offices, agencies and other instrumentalities of the Government, including the corporations owned or controlled by the Government, as may be deemed necessary, and for this purpose, the Committee may submit recommendations to diminish, add to or abolish those existing and create new ones; consolidate related undertakings; transfer functions, appropriations, equipment, property, records, and personnel from one department, bureau, office, agency or instrumentality to another; eliminate duplicated services or authorize new ones not provided for; classify, combine, split or abolish positions, standardize salaries, and do whatever is necessary and desirable to effect economy and promote efficiency in the government service.

To facilitate the work of the Committee, the Head of Department shall immediately create a reorganization subcommittee in his department. There shall also be sub-

committees for the reorganization of the corporations owned or controlled by the Government to be appointed by the respective boards of said corporations.

In the performance of its work, the Committee may secure the services of such officers and employees of any department, bureau, office, agency and other instrumentality of the Government, including the corporations owned or controlled by the Government, whose assistance it may require.

The Committee or its duly authorized representatives shall, for the purpose of securing needed data and information, have access to, and have the right to examine any books, documents, papers, or records of the executive departments, bureaus, offices, agencies, and other instrumentalities of the Government, including the corporations owned or controlled by it.

In order to expedite the reorganization of the Government as contemplated in Republic Act No. 51, the Committee shall submit its report and recommendations not later than December 15, 1946, and the subcommittees for the different departments and for the corporations owned or controlled by the Government shall submit their reports to the Committee not later than November 20, 1946.

Done at the City of Manila, this 18th day of October, in the year of Our Lord, nineteen hundred and forty-six, and of the Independence of the Philippines, the first.

MANUEL ROXAS

President of the Philippines

By the President:

EMILIO ABELLO

Chief of the Executive Office

[ADMINISTRATIVE ORDER NO. 15]

(To be published upon issuance)

MALACAÑAN PALACE
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 16

APPOINTING THE MEMBERS OF THE EMERGENCY
CURRENCY BOARD

In order to carry out the provisions of Republic Act Numbered Twenty-two, entitled "An Act providing for the creation of an Emergency Currency Board, the registration,

deposit and outlawing of emergency currency notes, and for other purposes," I, Manuel Roxas, President of the Philippines, by virtue of the powers vested in me by law, do hereby name and appoint the following members to compose the Emergency Currency Board created in the aforesaid Act:

Mr. Marciano Guevara, Chairman
Mr. Santiago Ramos, Member
Mr. Pablo D. Tobias, Member
Mr. Francisco P. Monge, Secretary

The members of the Board shall immediately enter upon the performance of their duties as prescribed in said Republic Act Numbered Twenty-two.

Done at the City of Manila, this 31st day of October, in the year of Our Lord, nineteen hundred and forty-six, and of the independence of the Philippines, the first.

MANUEL ROXAS

President of the Philippines

By the President:

EMILIO ABELLO

Chief of the Executive Office

REPUBLIC ACTS AND RESOLUTIONS**FIRST CONGRESS OF THE REPUBLIC
OF THE PHILIPPINES****First Session**

Begun and held at the City of Manila on Saturday, the twenty-fifth day of May, nineteen hundred and forty-six

H. No. 515

[REPUBLIC ACT NO. 9]

AN ACT TO AUTHORIZE THE PRESIDENT OF THE PHILIPPINES TO ENTER INTO AN AGREEMENT OR AGREEMENTS WITH THE GOVERNMENT OF THE UNITED STATES PURSUANT TO UNITED STATES PUBLIC ACT NUMBERED FOUR HUNDRED AND FIFTY-FOUR, COMMONLY CALLED THE "REPUBLIC OF THE PHILIPPINES MILITARY ASSISTANCE ACT," AND TO ISSUE THE NECESSARY RULES AND REGULATIONS TO IMPLEMENT SAID ACT, AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF.

BEAS, the maintenance of a strong military establishment in the Philippines is undertaken in the joint interest of the United States and of the Philippines, and in the interests of world peace and security;

WHEREAS, the people of the Philippines and their Government are already legally pledged to the common defense of the Philippines with the United States;

WHEREAS, the United States Government, through United States Public Act Numbered Four hundred and fifty-four, commonly called the "Republic of the Philippines Military Assistance Act," has offered to extend military assistance to the armed forces of the Republic of the Philippines in the form of supplies and equipment, information and technical advice and of personnel for the training of the armed forces of the latter; Now, therefore,

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The President of the Philippines is hereby authorized to enter into agreement or agreements with the President of the United States, or with any of the agencies or instrumentalities of the Government of the United States, regarding military assistance to the armed forces of the Republic of the Philippines, in the form of transfer

of property and information, giving of technical advice and lending of personnel to instruct and train them, pursuant to the provisions of United States Public Act Numbered Four hundred and fifty-four, commonly called the "Republic of the Philippines Military Assistance Act," under the terms and conditions provided in said Act.

SEC. 2. The President of the Philippines is hereby authorized to issue such rules and regulations as may be necessary and comparable to those customarily made by the United States, for the security of any article, plan or information received or acquired under the terms of this Act.

SEC. 3. Any officer, employee or agent of the Republic of the Philippines who shall, directly or indirectly, permit the use of any property received under the provisions of this Act or shall disclose any plan, specification or other information pertaining thereto, or any technical information furnished, for any purpose other than as set forth in the United States Public Act Numbered Four hundred and fifty-four or who shall violate the security of any plan or information received under the terms of this Act shall be punished as provided in the Articles of War (Commonwealth Act No. 408) or in Espionage Law (Commonwealth Act No. 616) or with imprisonment for not more than ten years or a fine of not more than ten thousand pesos both, in the discretion of the court, whichever of said penalties is higher.

SEC. 4. This Act shall take effect upon its approval.

Approved, September 2, 1946.

H. No. 126

REPUBLIC ACT NO. 163

AN ACT PENALIZING USURPATION OF PUBLIC AUTHORITY

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Any person who, with or without pretense of official position, shall perform any act pertaining to the Government, or to any person in authority or public officer, without being lawfully entitled to do so, shall be punished with imprisonment for not less than two years nor more than ten years.

SEC. 2. This Act shall take effect upon its approval.

Approved, September 2, 1946.

H. No. 291

[REPUBLIC ACT No. 11]

AN ACT TO PROHIBIT THE SLAUGHTERING OF
MALE AND FEMALE CARABAOS, HORSES,
MARES, AND COWS.

*Be it enacted by the Senate and House of Representatives
of the Philippines in Congress assembled:*

SECTION 1. Any provision of existing laws to the contrary notwithstanding, slaughtering of male and female carabaos, horses, mares, and cows is hereby prohibited unless authorized by the Secretary of Agriculture and Commerce.

SEC. 2. Any person who violates the provisions of the preceding section shall be punished with a fine of not less than two hundred pesos nor more than five hundred pesos or by imprisonment of not less than two months nor more than six months, or both fine and imprisonment at the discretion of the court.

SEC. 3. The Secretary of Agriculture and Commerce shall promulgate such rules and regulations as will effectively carry out the provisions of this Act. However, when in the opinion of the Secretary of Agriculture and Commerce there exists a sufficient number of work animals for agricultural purposes in the Philippines, the President may declare this Act inoperative.

SEC. 4. This Act shall take effect upon its approval.

Approved, September 2, 1946.

H. No. 124

[REPUBLIC ACT No. 12]

AN ACT AMENDING ARTICLES ONE HUNDRED
FORTY-SIX, TWO HUNDRED NINETY-FIVE, TWO
HUNDRED NINETY-SIX AND THREE HUNDRED
SIX OF THE REVISED PENAL CODE.

*Be it enacted by the Senate and House of Representatives of
the Philippines in Congress assembled:*

SECTION 1. Article one hundred forty-six of the Revised Penal Code is hereby amended to read as follows:

"ART. 146. *Illegal assemblies.*—The penalty of *prisión correccional* in its maximum period to *prisión mayor* in its medium period shall be imposed upon the organizers or leaders of any meeting attended by armed persons for the purpose of committing any of the crimes punishable under this Code, or of any meeting in which the audience is incited to the commission of the crime of treason, rebellion or insurrection, sedition or assault upon a person in authority

or his agents. Persons merely present at such meeting shall suffer the penalty of *arresto mayor*, unless they are armed, in which case the penalty shall be *prisión correccional*.

"If any person present at the meeting carries an unlicensed firearm, it shall be presumed that the purpose of said meeting, insofar as he is concerned, is to commit acts punishable under this Code, and he shall be considered a leader or organizer of the meeting within the purview of the preceding paragraph.

"As used in this article, the word 'meeting' shall be understood to include a gathering or group, whether in a fixed place or moving."

SEC. 2. Article two hundred ninety-five of the Revised Penal Code is hereby amended to read as follows:

"ART. 295. *Robbery with physical injuries committed in an uninhabited place or by a band.*—If the offenses mentioned in the next preceding article shall be committed in an uninhabited place or by a band, or by attacking a train, car, vehicle, vessel or craft, or by entering any compartment thereof or, in any manner, taking the persons therein by surprise in the respective conveyances, the offender shall be punished by the maximum period of the proper penalties.

"In the same cases, the penalty next higher in degree shall be imposed upon the leader of the band."

SEC. 3. Article two hundred ninety-six of the Revised Penal Code is hereby amended to read as follows:

"ART. 296. *Definition of a band and penalty incurred by the members thereof.*—When more than three armed malefactors take part in the commission of a robbery, it shall be deemed to have been committed by a band. When any of the arms used in the commission of the offense be an unlicensed firearm, the penalty to be imposed upon all the malefactors shall be the maximum of the corresponding penalty provided by law, without prejudice to the criminal liability for illegal possession of such unlicensed firearm.

"Any member of a band who is present at the commission of a robbery by the band, shall be punished as principal of any of the assaults committed by the band, unless it be shown that he attempted to prevent the same."

SEC. 4. Article three hundred six of the Revised Penal Code is hereby amended to read as follows:

"ART. 306. *Who are brigands—Penalty.*—When more than three armed persons form a band of robbers for the purpose of committing robbery in the highway, or kidnapping persons for the purpose of extortion or to obtain ransom, for any other purpose to be attained by means of force and violence, they shall be deemed highway robbers or brigands.

"Persons found guilty of this offense shall be punished by *prisión mayor* in its medium period to *reclusión temporal* in its minimum period if the act or acts committed by them are not punishable by higher penalties, in which case, they shall suffer such higher penalties.

"If any of the arms carried by any of said persons be an unlicensed firearm, it shall be presumed that said persons are highway robbers or brigands, and in case of conviction the penalty shall be imposed in the maximum period."

SEC. 5. This Act shall take effect upon its approval.

Approved, September 5, 1946.

H. No. 414

[REPUBLIC ACT NO. 13]

AN ACT TO AMEND SECTIONS FIVE AND SIX OF COMMONWEALTH ACT NUMBERED SIX HUNDRED AND SEVENTY-TWO, ENTITLED "AN ACT TO REHABILITATE THE PHILIPPINE NATIONAL BANK".

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Sections five and six of Commonwealth Act Numbered Six hundred and seventy-two are hereby amended to read as follows:

"SEC. 5. The blocked deposit balances of the Commonwealth Government, cities, provinces, and municipalities, remaining after effecting the write-offs as hereinbefore provided, shall stand as a credit balance in favor of the respective entities: *Provided*, That these deposit balances shall remain blocked until June thirty, nineteen hundred forty-seven and shall be available to cover such further deficiencies which may be disclosed or ascertained on or before June thirty, nineteen hundred forty-seven: *Provided, further*, That any further adjustments shall become effective only upon approval of the Secretary of Finance: *And provided, finally*, That said deposit balances may, prior to June thirty, nineteen hundred forty-seven, be withdrawn under licenses to be issued by the Secretary of Finance, upon the recommendation of the Bank Commissioner.

"SEC. 6. The net profits of the Philippine National Bank shall be apportioned annually as follows:

"(1) Fifty *per centum* to surplus until the latter shall equal fifty *per centum* of the capital stock of the Bank, and thereafter twenty-five *per centum* of said net profits until such surplus shall equal the capital stock.

"(2) The rest of the net profits shall be paid by the Bank with the approval of the Bank Commissioner to the

respective entities in proportion to their blocked deposit balances until the total amount thereof shall have been fully covered and refunded.

"Any amount that may be realized from assets previously determined as losses shall also be paid by the Bank with the approval of the Bank Commissioner to the respective entities in proportion to their blocked deposit balances.

"When the requirements of the preceding paragraphs numbered (1) and (2) shall have been fully complied with, the provisions of section four of Act Numbered Thirty-one hundred seventy-four of the Philippine Legislature with respect to disposition of net profits shall again be followed."

SEC. 2. This Act shall take effect upon its approval.

Approved, September 5, 1946.

S. No. 38

[REPUBLIC ACT No. 14]

AN ACT TO CHANGE THE NAME OF THE PROVINCE OF TAYABAS TO QUEZON

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. In recognition of the eminent and patriotic services rendered to the country by President Quezon, the name of the Province of Tayabas is hereby changed to Quezon.

SEC. 2. All laws inconsistent with this Act are hereby repealed.

SEC. 3. This Act shall take effect upon its approval.

Approved, September 7, 1946.

H. No. 85

[REPUBLIC ACT No. 15]

AN ACT PROVIDING THAT IN ANY CRIMINAL PROCEEDING BEFORE A JUSTICE OF THE PEACE NO COST *DE OFICIO* SHALL BE TAXED AGAINST THE MUNICIPALITY CONCERNED WHEN THE CASE IS DISMISSED OR THE DEFENDANT ACQUITTED.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Any provision of law to the contrary notwithstanding, in any criminal proceeding before a justice of the peace no cost *de oficio* shall be taxed against the municipality concerned when the case is dismissed or the defendant acquitted.

SEC. 2. This Act shall take effect upon its approval.

Approved, September 18, 1946.

H. No. 285

[REPUBLIC ACT No. 16]

AN ACT AUTHORIZING THE PRESIDENT OF THE PHILIPPINES TO OBTAIN SUCH LOANS OR INCUR SUCH INDEBTEDNESS WITH THE GOVERNMENT OF THE UNITED STATES, ITS AGENCIES AND INSTRUMENTALITIES, AS MAY BE NECESSARY TO COVER BUDGETARY DEFICITS AND OTHER EXPENDITURES OF THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES FOR REHABILITATION AND OTHER PURPOSES, AND APPROPRIATING THE NECESSARY FUNDS THEREFOR.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The President of the Philippines is hereby authorized to negotiate such loans or to incur such indebtedness with the Government of the United States, its agencies and instrumentalities, as may be necessary to cover budgetary deficits and other expenditures of the Government of the Republic of the Philippines for rehabilitation purposes, including the purchase of necessary equipment or of surplus and other kinds of property from the United States, under such terms and conditions as may be agreed upon.

SEC. 2. The authority herein granted to the President shall be deemed to include the authority to guarantee loans and credits extended to the corporations owned or controlled by the Government of the Republic of the Philippines.

SEC. 3. It shall be the duty of the President as soon as a loan is obtained or an indebtedness is incurred, to report to the Congress the amount of loan obtained and to submit a detailed program of expenditures for its approval.

SEC. 4. The necessary amount is hereby appropriated out of any funds in the National Treasury not otherwise appropriated to pay the principal and interest on such loan or indebtedness as and when they shall become due.

SEC. 5. This Act shall take effect upon its approval.

Approved, September 18, 1946.

H. No. 529

[REPUBLIC ACT No. 17]

AN ACT TO PROVIDE FOR THE CIRCULATION OF TREASURY CERTIFICATES WITH THE OFFICIAL SEAL OF THE REPUBLIC OF THE PHILIPPINES STAMPED, PRINTED OR SUPERIMPOSED THEREON, AND FOR OTHER PURPOSES.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The Reserve Vault Committee provided for in section sixteen hundred twenty-five (e) of the Revised Administrative Code is hereby authorized and directed to cause the official seal of the Republic of the Philippines to be stamped, printed or superimposed on all the unissued treasury certificates in its possession and on all treasury certificates that will hereafter come into its possession, and shall not issue or cause to be issued any treasury certificate that has not previously been so stamped, printed or superimposed with the official seal of the Republic of the Philippines. The Reserve Vault Committee shall determine the manner of effecting the above purpose.

SEC. 2. The Treasurer of the Philippines, as well as the treasurers of the provinces, chartered cities and municipalities and also all banks duly authorized to do business in the Philippines are hereby directed to deliver or present all treasury certificates in their possession which have not been previously marked as above provided to the Committee for exchange with treasury certificates that have been so previously marked.

SEC. 3. Every person holding or possessing, in whatever capacity, treasury certificates not duly marked as above provided, shall present the same on or before November thirtieth, nineteen hundred and forty-six, for exchange with treasury certificates that have been duly marked as herein provided, to the Treasurer of the Philippines, to the treasurer of any province, chartered city, or municipality, or to any bank duly authorized to do business in the Philippines.

SEC. 4. It shall be the duty of the Treasurer of the Philippines, the treasurer of any province, chartered city, or municipality, and the cashier and tellers of any bank doing business in the Philippines, upon presentation by any person of treasury certificates that have not been marked with the official seal of the Republic of the Philippines, to exchange such treasury certificates with those that have been previously marked that are in his possession at the time the presentation is made.

SEC. 5. On December first, nineteen hundred and forty-six, the Treasurer of the Philippines, the treasurers of the provinces, chartered cities and municipalities, and all banks doing business in the Philippines shall make a list of all treasury certificates in their possession that have not been duly marked with the official seal of the Republic of the Philippines, showing the denominations thereof, series, number and amount, and transmit the said list in a sealed envelope to the Committee. The respective treasurers and banks shall, within the month of December nineteen hun-

dred and forty-six, present the treasury certificates appearing in the said list to the Committee for exchange with treasury certificates that have been duly marked with the official seal of the Republic of the Philippines.

SEC. 6. Treasury certificates not marked as hereinabove provided shall, after November thirtieth, nineteen hundred and forty-six, not be legal tender for the purposes of section sixteen hundred and twelve of the Revised Administrative Code.

SEC. 7. The President of the Philippines is hereby authorized to extend the periods provided for in sections three, five, and six of this Act for periods of one month in each case, but in no case to exceed a total of three months, if in his opinion, public interest warrants such extension.

SEC. 8. This Act shall be published not only in the *Official Gazette* but also in newspapers of general circulation to be determined by the Secretary of Finance. It shall be the duty of the treasurers of provinces, cities and municipalities to post and keep posted copies of this Act in conspicuous places in the buildings where they have their offices during the period fixed herein for the presentation of treasury certificates for exchange.

SEC. 9. This Act shall take effect upon its approval.

Approved, September 25, 1946.

FIRST CONGRESS OF THE PHILIPPINES***First Session***

Begun and held at the City of Manila on Saturday, the twenty-fifth day of May nineteen hundred and forty-six

[RESOLUTION OF BOTH HOUSES]*

**RESOLUTION OF BOTH HOUSES PROPOSING AN
AMENDMENT TO THE CONSTITUTION OF THE
PHILIPPINES TO BE APPENDED AS AN ORDINANCE
THERE TO.**

Resolved by the Senate and House of Representatives of the Philippines in joint session assembled, by a vote of not less than three-fourths of all the Members of each House voting separately, To propose, as they do hereby propose, the following amendment to the Constitution of the Philippines to be appended as an Ordinance thereto:

"ORDINANCE APPENDED TO THE CONSTITUTION

"Notwithstanding the provisions of section one, Article Thirteen, and section eight, Article Fourteen, of the foregoing Constitution, during the effectivity of the Executive Agreement entered into by the President of the Philippines with the President of the United States on the fourth of July, nineteen hundred and forty-six, pursuant to the provisions of Commonwealth Act Numbered Seven hundred and thirty-three, but in no case to extend beyond the third of July, nineteen hundred and seventy-four, the disposition, exploitation, development, and utilization of all agricultural, timber, and mineral lands of the public domain, waters, minerals, coal, petroleum, and other mineral oils, all forces and sources of potential energy, and other natural resources of the Philippines, and the operation of public utilities, shall, if open to any person, be open to citizens of the United States and to all forms of business enterprise owned or controlled, directly or indirectly, by citizens of the United States in the same manner as to, and under the same conditions imposed upon, citizens of the Philippines or corporations or associations owned or controlled by citizens of the Philippines."

This amendment shall be valid as a part of the Constitution when approved by a majority of the votes cast in an election at which it is submitted to the people for their ratification pursuant to Article XV of the Constitution.

Adopted, September 18, 1946.

* To be published in English and Spanish in three (3) consecutive issues of the OFFICIAL GAZETTE as required by section 2 of Republic Act No. 73 submitting to the Filipino people, for approval or disapproval, the proposed amendment to the Constitution. (First publication.)

PRIMER CONGRESO DE LA REPÚBLICA DE FILIPINAS***Primer Período Ordinario de Sesiones***

Empezado y celebrado en la Ciudad de Manila el sábado, veinticinco de mayo de mil novecientos cuarenta y seis

[RESOLUCIÓN DE AMBAS CÁMARAS]*

**RESOLUCIÓN DE AMBAS CÁMARAS PROPONIENDO
UNA ENMIENDA A LA CONSTITUCIÓN DE FILI-
PINAS QUE SERÁ ADSCRITA COMO UNA ORDE-
NANZA DE LA MISMA.**

El Senado y la Cámara de Representantes de Filipinas constituidos en sesión conjunta, mediante el voto de no menos de las tres cuartas partes de todos los Miembros de cada Cámara en votación separada resuelven, Proponer, como por la presente proponen, la siguiente enmienda a la Constitución de Filipinas que será adscrita como una Ordenanza de la misma:

"ORDENANZA ADSCRITA A LA CONSTITUCIÓN

"No obstante las disposiciones del artículo primero, Título Trece y del artículo octavo, Título Catorce de la precedente Constitución, durante la efectividad del Convenio Ejecutivo celebrado por el Presidente de Filipinas con el Presidente de los Estados Unidos el cuatro de julio de mil novecientos cuarenta y seis, con arreglo a las disposiciones de la Ley Número Setecientos treinta y tres del Commonwealth, pero que en ningún caso se prorrogará más allá del tres de julio de mil novecientos setenta y cuatro, la disposición, explotación, desarrollo y aprovechamiento de todos los terrenos agrícolas, madereros y mineros del dominio público, las aguas, los minerales, el carbón, el petróleo y otros aceites minerales, todas las fuerzas y fuentes de energía potencial y demás recursos naturales de Filipinas y la explotación de utilidades públicas, si fueren asequibles para cualquiera persona, lo serán para los ciudadanos de los Estados Unidos y para todas las formas de empresas comerciales de la propiedad o bajo el control directo o indirecto de los ciudadanos de los Estados Unidos de la misma manera y en las mismas condiciones impuestas a los ciudadanos de Filipinas o a las corporaciones o sociedades que sean de la propiedad o estén bajo el control de los ciudadanos de Filipinas."

Esta enmienda será válida como parte de la Constitución cuando sea aprobada por una mayoría de los votos emitidos en una elección en la que será sometida al pueblo para su ratificación de acuerdo con el Título XV de la Constitución.

Adoptada, Septiembre 18, 1946.

* Se publicará en inglés y en español en tres (3) números consecutivos de la GACETA OFICIAL de acuerdo con el artículo 2 de la Ley de la República No. 73 que somete al pueblo filipino, para su aprobación o desaprobación, la propuesta enmienda a la Constitución. (Primera publicación.)

H. Jt. R. No. 12

[JOINT RESOLUTION No. 1]

JOINT RESOLUTION AUTHORIZING THE PRESIDENT OF THE REPUBLIC OF THE PHILIPPINES TO ORGANIZE IMMEDIATELY ADDITIONAL ELEMENTARY CLASSES IN THE PUBLIC SCHOOLS THROUGHOUT THE PHILIPPINES.

WHEREAS, thousands and thousands of children of school age throughout the Philippines have been denied admission to the public schools;

WHEREAS, the education of the people is one of the most vital functions of the government in democracies;

WHEREAS, the President, in a message to the Congress of the Philippines dated August 5, 1946, had requested for the appropriation of sixteen million seven hundred and fifty thousand pesos for the organization and maintenance of additional elementary classes in the public schools throughout the Philippines; and

WHEREAS, the enactment of the General Appropriation Act for the fiscal year 1947 will take time and delay the organization of such additional classes; Now, therefore, be it

Resolved by the Senate and House of Representatives of the Philippines in Congress assembled:

To authorize, as they do hereby authorize, the President of the Republic of the Philippines to organize immediately additional elementary classes in the public schools throughout the Philippines: *Provided*, That the total expenditures for the organization and maintenance of such additional classes for the school year 1946-1947 shall not exceed the sum of sixteen million seven hundred and fifty thousand pesos.

Approved, September 25, 1946.

H. Jt. R. No. 11

[JOINT RESOLUTION No. 2]

JOINT RESOLUTION CREATING A COMMISSION OF FIVE MEMBERS TO BE DESIGNATED AS LOCAL GOVERNMENT REFORM COMMISSION TO MAKE A THOROUGH STUDY OF THE PRESENT LOCAL GOVERNMENT SYSTEM AND LAWS IN THE PHILIPPINES AND TO SUGGEST REFORMS CALCULATED TO MAKE OUR LOCAL INSTITUTIONS MORE AUTONOMOUS AND PROGRESSIVE.

WHEREAS, good, stable, self-ruled municipal governments or institutions are essential to the development of civic-spirited, vigilant and militant citizenry, so indispensable in a democracy like ours;

WHEREAS, without the spirit of municipal institution, any system of free government which a nation may establish can not have the spirit of liberty;

WHEREAS, our present local governments have as a general rule failed in this respect and leave much to be desired in the matter of material progress;

WHEREAS, the present structure of our local governments devised and established more than forty years ago is now so antiquated and not in keeping with the new social trends and concepts;

WHEREAS, the National Government has been giving aids to the local governments to enable the latter to perform their functions and accomplish the purposes for which they are established and it is now high time to stop this paternalistic attitude of the National Government so that local initiative may be developed; Now therefore,

Be it resolved by the Senate and the House of Representatives of the Philippines in Congress assembled:

That a Commission composed of not more than five members to be appointed by the President of the Philippines from among the technical officers and employees of the Government be, and the same hereby is, created. It shall be designated as Local Government Reform Commission and it shall make a thorough study of the present local government system and laws in the Philippines and suggest measures to reform and improve the same so that our local governments may be more autonomous, more independent of the National Government and more responsive to the needs and problems of their inhabitants. The members of the Commission shall serve without additional compensation, but they shall continue to receive their salaries from their respective departments, bureaus or offices. The Commission shall have the authority to require the services of any employee of any department, bureau, office or agency of the Government or of either the House of the Congress, with the approval of the Department Head concerned.

That the Commission shall submit to the President of the Philippines and to both Houses of the Congress at the opening of the next regular session of the Congress a report of its study which must contain the measures suggested or recommended by it.

Approved, October 16, 1946.

H. Jt. R. No. 18

[JOINT RESOLUTION No. 3]

JOINT RESOLUTION AUTHORIZING THE ACCEPTANCE BY THE PRESIDENT OF THE REPUBLIC OF THE PHILIPPINES OF THE CONSTITUTION OF THE UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION.

WHEREAS, the Republic of the Philippines is a signatory to the Constitution of the United Nations Educational, Scientific and Cultural Organization approved in London on 16 November 1945 and to which some forty-three nations are also signatories;

WHEREAS, Article XV of the said Constitution provides that the Constitution shall be subject to acceptance by the respective Governments and that the Instrument of Acceptance shall be deposited with the Government of the United Kingdom; and

WHEREAS, it is the sense of the Congress of the Philippines that it is in the best interest of the Philippines that the Constitution of the United Nations Educational, Scientific and Cultural Organization be accepted so that we may assume the responsibilities and the privileges as member thereof; Now, therefore, be it

Resolved by the Senate and the House of Representatives in Congress assembled:

That the President of the Philippines be, as he hereby is authorized to accept the Constitution of the United Nations Educational, Scientific and Cultural Organization conformably with Article XV of the same governing its acceptance; and

That with a view to enabling this Government to assume the responsibilities and enjoy the privileges as a member thereof, the President of the Philippines be authorized to take all the steps necessary to insure the compliance by this Government of all the obligations arising from membership therein.

Approved, October 17, 1946.

H. Jt. R. No. 17

S. Jt. R. No. 6

[JOINT RESOLUTION No. 4]

JOINT RESOLUTION TO CREATE THE QUEZON SERVICE CROSS FOR EXEMPLARY SERVICE TO THE NATION IN MEMORY OF THE LATE PRESIDENT MANUEL L. QUEZON.

WHEREAS, the life of Manuel L. Quezon is and should be a shining inspiration to the people of the Philippines now and in the future;

WHEREAS, the values and ideals exemplified in the splendid public service of the late President Manuel L. Quezon constitute a standard by which other contributions to the people's welfare can be compared and evaluated;

WHEREAS, the unselfish devotion to the public good and the supreme sacrifice of life in the cause of his country made of Manuel L. Quezon one of the great heroes of all time;

WHEREAS, the memory of the late and beloved President will be cherished by his people through the generations to come, in company with the other immortals of our nation; and

WHEREAS, it is proper and desirable in commemoration of his name that the model of his life and achievements be used as a standard of recognition for all great and lasting contributions to the welfare of the people; Now, therefore, be it

Resolved by the Senate and House of Representatives of the Philippines in Congress assembled:

To establish, as there is hereby established, an award to be known as the Quezon Service Cross, to be granted by the President of the Philippines, with the concurrence in each case of the Congress of the Philippines, for exemplary service to the nation in such a manner and such a degree as to add great prestige to the Republic of the Philippines, or as to contribute to the lasting benefit of its people. Nominations for this award shall be accomplished by a statement of the services meriting the award and shall be made only in cases where the service performed or contribution made can be measured on the scale established by the national benefaction of the late President Manuel L. Quezon.

That the President be authorized to provide for the design and conformation of suitable medal and ribbon accompanying the award, and to issue necessary rules and regulations governing the precedence and privileges of the award and of its recipients: *Provided*, That Congress may in the future establish such further benefits for the recipients of this award as may be found desirable.

Approved, October 21, 1946.

DEPARTMENT AND BUREAU ADMINISTRATIVE ORDERS
AND REGULATIONS

DEPARTMENT OF THE INTERIOR

DEPARTMENT ORDER No. 5
October 30, 1946

AMENDING THE FIRST PARAGRAPH OF
DEPARTMENT ORDER No. 3

The first paragraph of Department Order No. 3 dated September 2, 1946 is hereby amended to read as follows:

"Pursuant to the provisions of existing laws, there is hereby constituted a Commission on Peace and Order to which Lt. Col. Elias Dioquino is hereby appointed as Chairman, and Attorney Adolfo Arguelles and Mr. Cesar Sotto as members."

JOSE C. ZULUETA
Secretary of the Interior

PROVINCIAL CIRCULAR (Unnumbered)

October 17, 1946

WAR DAMAGE CLAIMS, MINIMUM REQUIREMENTS TO BE FULFILLED

To all Provincial Governors, and City Mayors:

Following is a memorandum transmitted by the United States Ambassador to the Department of Foreign Affairs and sent to this Department by the latter, setting forth the authority or the procedure under which the Philippine War Damage Commission may consider claims filed under section 304 of the Philippine Rehabilitation Act of 1946 and indicating in paragraph 3 thereof the minimum requirements to support such claims:

"PHILIPPINE WAR DAMAGE COMMISSION
WASHINGTON 25, D. C.
PUBLIC PROPERTY CLAIMS DIVISION

August 30, 1946

Memorandum for Commissioner WARING:

"Pursuant to your request relative to an advance payment in compensation for loss of or damage to certain schools, hospitals, and public buildings in the Philippines, it is suggested that the following minimum requirements be fulfilled:

- "(1) The Commission is authorized to make an advance payment on any public claim under section 304 within the limits of the appropriation allocated therefor, (See page 10, line 13), 'To the fullest extent practicable . . .' Further emphasis of this authority is found in the last sentence of section 304 reading in part, as follows: 'The Commission shall have full power to select, and fix the priority of, cases in which compensation will be awarded or property rebuilt, repaired, or replaced . . . ; and (2) determine the amount of such compensation. . .' (Italics supplied.)
- "(2) All individual claims classified under section 304 may be filed by the Republic of the Philippines, the provincial governments, chartered cities, municipalities, or corporations wholly owned by the Republic of the Philippines in the Philippines. The claim in question listing the damaged schools, hospitals, and public buildings may not alone pertain to the Republic, but, as a matter of fact, involved claims or any or all of the enumerated entities. If the latter be the case, we must have a bona fide claim from each respective entity presented over the signature of a properly designated official.
- "(3) Furthermore, under section 304, there must be presented:
 - "(a) The name and specific location of the school, hospital, or public building;
 - "(b) The year built and construction cost;
 - "(c) Value at time of damage;
 - "(d) Description of property; i. e. type of construction, number of stories, number of rooms, over-all dimensions and equipment; and
 - "(e) The itemized and total amounts claimed.
 - "(f) Complete information should be submitted with respect to any other claim that may have been filed with any department of the United States Government or any insurance company. If one, it should be so stated.
 - "(g) A general certification should be furnished showing that the compensation allowed will be used solely in the repair or reconstruction of the specific properties enumerated in the claim, and that in no individual case will the amount expended in repair or recon-

struction exceed the amount set forth in the detailed statement of claims.

“(h) A general certification should be submitted stating that in each instance the loss or damage occurred during the period from December 7, 1941 to October 1, 1945 as a result of one of the perils cited in the Act.”

Respectfully,

FRANK A. GOEBEL
WALTER B. LAND”

Any claim of the nature referred to above should be embodied in a resolution signed by all the members adopting it. As will be seen, the minimum requirements call for the technical knowledge of such officials as the Provincial or City Treasurer, the District or City Engineer and the Provincial or City Auditor. It is, therefore, suggested that before a resolution is adopted submitting a claim, the views of the said officials be secured and incorporated into the resolution. Each and every item given in the resolution should be checked, rechecked and reviewed to see whether the minimum requirements indicated by the Philippine War Damage Commission are complied with in order to avoid red tape and delay. Once a resolution is adopted in accordance with the foregoing instructions, it should be forwarded to this Department, with at least five extra legible copies each and every one of which duly signed by the members adopting the same resolution, to facilitate reference thereof to the proper offices.

Provincial Governors and City Mayors will please transmit this circular to the provincial boards and municipal councils, and to the municipal boards or city councils, respectively, for their information and guidance.

JOSE C. ZULUETA
Secretary of the Interior

PROVINCIAL CIRCULAR (Unnumbered)

October 7, 1946

OCTOBER 28 TO NOVEMBER 30, 1946 DECLARED PHILIPPINE RED CROSS NATIONAL FUND CAMPAIGN.

To all Provincial Governors and City Mayors:

The contents of Proclamation No. 10 of His Excellency, the President of the Phil-

ippines, are quoted hereunder for the information and guidance of all concerned:

“WHEREAS, the Philippine Red Cross has an unbroken record of humanitarian service to the Filipino people extending over a period of many years;

WHEREAS, our people have learned to look forward to and depend upon its assistance in cases of great disasters and public calamities;

WHEREAS, it is today rendering invaluable aid to Filipino war veterans and to hospitalized members of the Philippine Army in the form of service, recreational facilities and medical supplies;

WHEREAS, the Philippine Red Cross has contributed and continues to contribute to the health, welfare and safety of our people by extending assistance to public and private hospitals and through its service programs in Home Nursing, Junior Red Cross, First Aid, Life Saving and related activities;

WHEREAS, despite its own heavy losses during the war, the Philippine Red Cross has once more resumed its mission of service, prepared to contribute to the rehabilitation of our country and people;

WHEREAS, the Philippine Red Cross will soon be established as an independent organization as benefits our new status as an independent Republic;

WHEREAS, such forthcoming independence of the Philippine Red Cross will require even greater support from our people as well as stronger financial foundation and backing to insure its stability and the extent and efficiency of its service;

NOW, THEREFORE, I, Manuel Roxas, President of the Philippines, do hereby declare the period between October 28 and November 30, 1946, for the national fund campaign of the Philippine Red Cross, and I call upon all our citizens, our business and professional groups, government officials, teachers and foreign nationals residing in our country as well as upon all public-spirited organizations to support this campaign and to give generously of their means, time and personal services in furtherance of the aims and ends of the Philippine Red Cross.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the Republic of the Philippines to be affixed.

Done at the City of Manila, this 30th day of September, in the year of Our Lord, nineteen hundred and forty-six, and of the Independence of the Philippines, the first.”

Provincial Governors shall bring the contents hereof to the attention of all Municipal Mayors.

JOSE C. ZULUETA
Secretary of the Interior

PROVINCIAL CIRCULAR (Unnumbered)

October 19, 1946

JANUARY 1, 1947—CENSUS DAY

To all Provincial Governors, and City Mayors:

There is quoted hereunder Executive Order No. 21 of the President of the Philippines, dated October 15, 1946, entitled "fixing Wednesday, January 1, 1947, as Census Day":

"WHEREAS, Republic Act No. 36, entitled 'Census Act of Nineteen Hundred Forty-Six,' provides that the President of the Philippines shall, by executive order, proclaim any day selected for census-taking as Census Day;

"NOW, THEREFORE, I, Manuel Roxas, President of the Philippines, pursuant to the provisions of Republic Act No. 36, do hereby designate Wednesday, January 1, 1947, as Census Day, on which date the enumeration of the population and the collection of all pertinent social and economic data throughout the Philippines shall begin and proceed on consecutive days thereafter, including Sundays and holidays, until completed.

"In accordance with the provisions of said Republic Act No. 36 that 'the supervisors, enumerators and other subordinate personnel for the census work shall be drafted mostly from the personnel of the Government, including provincial, city and municipal officials and employees, school teachers, field forces of the different bureaus and offices, city and municipal police forces, and members of the Philippine Army,' all Heads of Departments under the Executive Branch of the Government are hereby enjoined to authorize and instruct all bureaus and offices respectively under them and provincial, city and municipal officials and army commanders concerned to make available for purposes of census-taking, the services of such of their personnel as shall be requisitioned for the purpose. All such government personnel as will be drafted for the census work shall, unless otherwise directed by a superior census authority, render service in the barrio, poblacion, municipality, city or province where they are actually working."

Provincial Governors, City, Municipal and Municipal District Mayors are hereby authorized and instructed to make available for census-taking the services of such of their personnel as shall be requisitioned for the purpose, said personnel to render service in the barrio, poblacion, municipality, city or province where they are actually working

unless otherwise directed by a superior census authority.

Provincial Governors will please transmit the contents hereof to the municipal authorities concerned under their respective jurisdictions.

JOSE C. ZULUETA
Secretary of the Interior

DEPARTMENT OF FINANCE

BUREAU OF CUSTOMS

TARIFF DECISION CIRCULAR No. 1

September 9, 1946

TO ALL COLLECTORS OF CUSTOMS AT SUB-PORTS OF ENTRY, DIVISION CHIEFS, MANILA CUSTOMHOUSE, OTHERS CONCERNED:

PARAGRAPH I. The opinion of the Honorable, the Secretary of Justice dated August 17, 1946 and the 1st Indorsement of the Honorable, the Undersecretary of Finance, dated September 3, 1946 relative thereto, are quoted hereunder for your information and guidance:

"The Honorable
The Undersecretary of Finance
Manila

Sir:

This is with reference to your letter of July 24, 1946, requesting opinion on whether or not 'articles the growth, product or manufacture of foreign countries other than the United States of America (except those expressly mentioned in the free list of the Philippine Tariff Act of 1909, as amended,' imported into the Philippines by 'the United States Government, its branches, agencies, or instrumentalities,' for its own use, are subject to the payment of customs duties.

It appears from the communication that the claim for exemption was based on the provisions of section 2(A) (4) of the Tydings-McDuffie Law and section 1(4) of the Ordinance Appended to the Constitution of the Philippines, which 'exempt from taxation,' among others, 'property owned by the United States.' The exemption so provided does not, however, cover 'imports' and is limited to the general property tax. At any rate, those provisions ceased to have force and effect upon the final and complete withdrawal of United States sovereignty over the people and territory of the Philippines, on July 4, 1946.

However, the 'Philippine Trade Act of 1946' otherwise known as the 'Bell Act' provides, in section 323 thereof, that 'No processing tax or other internal tax shall be imposed or collected in the Philippines with respect to articles coming into the Philippines for the official use of the United States Government or any department or agency thereof.'

Defining the term 'internal tax,' section 2 (a) of the same Act reads:

'(8) The term 'internal tax' includes internal fee, charge or exaction, and includes—

* * * (B) any other tax, fee, charge, or exaction, imposed on or in connection with importation *unless* the law of the country imposing it designates or imposes it as a *customs* duty or contains a provision to the effect that it shall be treated as a *duty imposed under the customs laws*.'

In thus limiting the exemption of 'articles coming into the Philippines for the official use of the United States Government or any department or agency thereof' to processing taxes or other internal taxes *not* designated or imposed 'as a *customs* duty' or 'under the customs laws,' the intention of the United States to submit itself to the payment of such customs duty becomes apparent.

Indeed, it has been said that the power to impose taxes is one so unlimited in force and so searching in extent, that courts scarcely venture to declare that it is subject to any restrictions whatever except, such as rest in the discretion of the authority which exercises it. (Cooley's Constitutional Limitations. Vol. 2, p. 986, 8th Ed.) For this reason, well-known authorities as Bynkershoek, Rutherford and Martins hold that goods of a sovereign, however acquired, are liable to process to compel an appearance are subject to the authority of the Judge of the place where found (cited by appellees in *Schooner Exchange v. Mc Faddon*, 7 Cranch, 116, 3 L. ed., 287).

In view, therefore, of the clear provisions of sections 2a(8) (B) and 323 of the Philippine Trade Act of 1946, I am of the opinion that articles, other than 'United States articles,' as defined in section 2(a) (5) of the 'Philippine Trade Act of 1946' (which, under section 311 thereof, 'shall be admitted into the Philippines free of ordinary customs duty' up to July 3, 1954) and those expressly mentioned in the free list of the Philippine Tariff Act of 1909, as amended,—the effectivity of which in the Philippines, after July 4, 1946, has been continued, 'until the Congress of the Philippines shall provide otherwise' (Republic Act No. 3)—imported into the Philippines, 'for the official use of the United States

Government or any department or agency thereof,' are subject to the payment of customs duty.

Respectfully,

ROMAN OZAETA
Secretary of Justice

True copy"

* * * * *

"1ST INDORSEMENT

September 3, 1946

Respectfully transmitted to the Insular Collector of Customs, Manila, the attached copy of an opinion of the Honorable, the Secretary of Justice, attention being invited to the last paragraph thereof.

In view of said opinion, it is hereby directed that that Bureau proceed to assess, if it has not already done so, customs duty on imports of the United States Government or any department or agency thereof for its own official use, subject to the pertinent provisions of the Philippine Trade Act of 1946 and the Philippine Tariff Act of 1909, as amended.

CRISPIN LLAMADO
Undersecretary of Finance

PAR. II. Hereafter, Customs duty on imports of the United States Government or any department or agency thereof for its own official use should be assessed and collected, subject to the pertinent provisions of the Philippine Trade Act of 1946 and the Philippine Tariff Act of 1909, as amended.

PAR. III. All Customs officials are hereby enjoined to give due publicity to the provisions of this Circular.

ALFREDO DE LEÓN
Insular Collector of Customs

CUSTOMS ADMINISTRATIVE ORDER No. 7

October 23, 1945

PHILIPPINE TARIFF ACT OF 1909, AS AMENDED
C. A. O. No. 390, AMENDED

To all Collectors of Customs at subports and others concerned:

PARAGRAPH I. The selling price of the Philippine Tariff Act of 1909, as amended is hereby increased from ₱1.50 to ₱2 a copy.

PAR. II. The provision of paragraph I Customs Administrative Order No. 390 to the price of this publication is hereby amended.

PAR. III. Philippine Customs officers shall give due publicity to the terms of this order.

MELECIO FABROS
Acting Insular Collector of Customs

CUSTOMS ADMINISTRATIVE ORDER No. 8

November 20, 1945

INCREASING THE RATES OF OVERTIME PAY FOR CLASSIFIED AND UNCLASSIFIED EMPLOYEES IN THE LOWER BRACKET OF THE BUREAU OF CUSTOMS; AMENDING IN PART CUSTOMS ADMINISTRATIVE ORDER No. 359, OLD SERIES.

PARAGRAPH I. The following items of Paragraph II of Customs Administrative Order No. 274, as amended by Customs Administrative Order No. 359, relating to rates of overtime pay of classified and unclassified employees of the Bureau of Customs, are hereby further amended to read as follows:

Guards and weighers.....	₱0.55 per hour
Gatekeepers and harbor police	.50 per hour
Openers .....	.45 per hour

PAR. II. The provisions of this Order shall take effect on December 1, 1945.

PAR. III. Philippine Customs officers and employees shall give due publicity and enforcement to the terms hereof.

MELECIO FABROS
Acting Insular Collector of Customs

Approved:

JAIME HERNANDEZ
Secretary of Finance

CUSTOMS ADMINISTRATIVE ORDER No. 9

December 10, 1945

FIXING STORAGE RATES FOR YEAR 1946, ON MERCHANDISE REMAINING IN CUSTOMS PREMISES AND GENERAL BONDED WAREHOUSE, AND ON BAGGAGE AND PARCELS LEFT IN CUSTOMS CUSTODY.

all Collectors of Customs at subports of entry, Chiefs of Divisions, Manila Customhouse, importers and others concerned:

PARAGRAPH I. Pursuant to the provisions of Section 1257 of the Revised Administrative Code, the following rates of storage to be charged on goods, wares, or mer-

chandise and baggage remaining in government piers, customs premises, and general bonded warehouses at all ports of entry, effective January 1, 1946:

AT MANILA

Merchandise remaining in government piers and Customs premises:

(a) Consignments of merchandise, or parts thereof, not designated for examination and which remain in any government pier or on Customs premises for more than five working days after the cargo of the vessel from which such merchandise was landed has been officially declared to be discharged shall, prior to their delivery to the importer or transfer to any private-bonded warehouse, pay storage at the rate of ₱0.10 per ton, weight or measurement, per day, except as provided in Paragraph XI hereof.

Provided, That if an importer or broker demands delivery within the period of five days after the cargo of the importing vessel has been officially declared to be discharged by filing his delivery permit and having sufficient means of transportation to withdraw his merchandise from the piers, and the merchandise covered by the permit cannot be delivered by the Luzon Stevedoring Company because of the congestion of merchandise and traffic in the piers, the five-day period herein provided shall be extended for the duration of such congestion upon certification by the Manager of the Luzon Stevedoring Company to the Insular Collector of Customs that such congestion exists. When not so certified by the Manager of the Luzon Stevedoring Company, the Surveyor of the Port, acting in behalf of the Insular Collector of Customs may from time to time, extend the five-day period upon the petition of importers or brokers, if in his opinion the condition of the piers does not permit movement of merchandise during that period; and

Provided further, That in no case shall storage be assessed at less than ₱0.35 on any single package of less than 3.334 tons or at less than ₱0.70 on any consignment consisting of two or more packages of less than 6.667 tons, on any day or fraction thereof; and

Provided further, That storage may be calculated by American measurement ton of 1.1326124 cubic meters (40 cubic feet), in the discretion of the Insular Collector of Customs; and

Provided further, That storage charges shall not be collected on merchandise designated for examination, except as hereinafter provided.

The Surveyor of the Port shall, immediately upon receipt of advice of the Luzon Stevedoring Company as to the time of the completion of discharge of cargo from a vessel lying alongside the pier or bulkhead, cause to be posted a notice at the pier and

in the customhouse announcing that fact and giving the day upon which storage on cargo from such vessel will begin.

(b) Goods, packages, or parts of consignment designated for examination which shall remain in the piers or Customs premises more than 48 hours after examination shall be subject to storage at the rate of ₱0.20 per ton, weight or measurement, per day;

Provided, however, That in case said articles are taken from the piers or bulkhead within the said 48 hours—excluding Sundays and holidays—after the examination the same shall be exempt from storage charges, except as hereinafter provided; and

Provided further, That no storage shall be assessed on any of the articles herein referred to prior to the expiration of five working days after the cargo of the vessel from which such articles have been landed has been officially declared so discharged, although 48 hours have already elapsed after the examination of said articles; and

Provided further, That in no case shall the free storage period be more than seven working days, counted from the date the cargo of the importing vessel is officially declared to be discharged.

(c) Packages and articles, whether manifested or not, or ship-stores remaining in the Parcel Office of the Appraiser's Division for more than five working days after their receipt therein, shall pay the following rates:

(1) No charge on packages or articles weighing less than one kilo;

(2) Packages or articles weighing from one kilo to ten kilos ₱0.05 per day; and

(3) Packages or articles weighing more than ten kilos ₱0.10 per day;

Provided, That all such packages or articles so remaining shall be subject to at least ten days' storage at the above rates; and

Provided further, That no storage shall be charged on such articles or packages until the expiration of the above-mentioned five-day period after their receipt in said office.

(d) Parcels and packages received by mail through the Post Office, which remain in the Parcel Office of the Appraiser's Division for more than 15-working days after their receipt therein, shall pay the following rates:

(1) Parcels or packages weighing ten kilos or less ₱0.02 per day; and

(2) Parcels or packages weighing more than ten kilos ₱0.05 per day;

Provided, That storage shall not accrue on such parcels or packages until the expiration of the 15 working-day period after their receipt in said office; and

Provided further, That all such parcels or packages shall, if not taken within the 15-day period

from the date they are received in the Parcel Office, be subject to not less than 20 days' storage at the above rates.

Merchandise transferred to, or stored in, any general bonded warehouses:

(e) Consignments of merchandise, or parts thereof, not hold for examination which are transferred to general bonded warehouses and remain therein for more than five-working days after the cargo of the steamer from which such merchandise was landed has been officially declared to be discharged, shall pay storage at the rate of ₱0.10 per ton, weight or measurement, per day, under the same special provisions as those stated in subparagraph (a);

Provided, That in no case shall storage be assessed at less than ₱0.35 on any single package of less than 3.334 tons, or at less than ₱0.70 on any consignment consisting of two or more packages of less than 6.667 tons, on any day or fraction thereof.

(f) Goods, packages, or parts of consignments designated for examination which shall remain in any bonded warehouse for more than 48 hours after examination shall be subject to storage at the rate of ₱0.20 per ton, weight or measurement, per day.

Provided, however, That in case said articles are taken from the bonded warehouses within the said 48 hours—excluding Sundays and holidays—after examination, the same shall be exempt from storage charges, except as hereinafter provided; and

Provided further, That no storage shall be assessed on any of the articles herein referred to prior to the expiration of five-working days after the cargo on the vessel from which such articles have been landed has been officially declared as discharged, although 48 hours have already elapsed after the examination of said articles; and *Provided further,* that in no case shall the free storage period be more than seven working days, counted from the date the cargo of the importing vessels is officially declared to be discharged.

AT CEBU, ILOILO, ZAMBOANGA, DAVAO, JOLO, TABACO,
JOSE PANGANIBAN, APARRI, AND TACLOBAN

(g) Consignments of merchandise, or parts thereof, which remain in customs premises, government warehouses, or in the piers for more than four-working days after the discharge of the last package of the consignment upon the customs wharf or piers, shall pay at the rate of ₱0.10 per ton, weight or measurement, per day.

Provided, That in no case shall storage be assessed at less than ₱0.35 on any single package of less than 3.334 tons or at less than ₱0.70 on any consignment consisting of two or more packages of less than 6.667 tons on any day or fraction thereof; and

Provided further, That in any case storage may be calculated by American measurement ton as expressed in subparagraph (a), in the discretion of the Collector of Customs.

(h) Goods, packages, or parts of consignments designated for examination which remain in the appraisers' stores ore in the piers for more than 48 hours after examination, shall be subject to storage at the rate of ₱0.20 per ton, eight or measurement, per day.

Provided, That in case said articles are taken from the appraisers' stores or the piers within the said 48 hours, excluding Sundays and holidays, after the examination, the same shall be exempt from storage charges; and

Provided further, That no storage shall be assessed on any of the articles herein referred to prior to the expiration of four working days after the cargo of the vessel from which such articles have been landed has been officially declared as discharged, although 48 hours have already elapsed after the examination of said articles.

(i) Packages and articles, whether manifested or not, or ship-stores remaining in customs premises for more than five-working days after their receipt therein, shall pay storage at the rate of ₱0.10 per piece or parcel per day.

Provided, That there shall be no charge on packages or articles weighing less than one kilo.

(j) Parcels and packages received by mail through the post office, which remain in the Appraisers' Division for more than fifteen days after their receipt therein, shall pay storage at the rate of ₱0.05 per day.

Provided, That no storage shall be charged on parcels or packages weighing less than one kilo; and

Provided further, That all such parcels and packages, if not taken within the 15-day period from the date they are received in the Appraisers' Division, shall be subject to not less than twenty days' storage at the above rate.

(k) Goods, packages, or parts of consignments designated for examination which remain in the appraisers' stores more than 48 hours after the liquidation of the entry has been posted at the Liquidation Office, shall pay at the rate of ₱0.20 per ton, weight or measurement per day;

Provided, That all goods, packages or parts of consignments so remaining shall be subject to at least five days' storage at the said rate; and

Provided further, That no storage shall be charged on such goods, packages, or parts of consignments, until the expiration of 48 hours after the liquidation of the entry has been posted at the Liquidation Office.

AT ALL PORTS OF ENTRY

(1) Packages known as baggage or arriving as such, which remain in customs custody after their receipt on customs premises at any port of entry in the Philippines, shall pay the following rates per day including Sundays and holidays:

Not exceeding 60 cubic decimeters in bulk,
₱0.02, each;

More than 60 to 120 cubic decimeters in bulk,
.04 each;

More than 120 cubic decimeters in bulk, .06 each;

Provided, That all steamer chairs and wooden frames covered with cane, cloth, or canvas, of the folding variety, shall pay at the rate of two centavos (0.02) each per day; and

Provided further, That storage charges shall not accrue on such package and steamer chairs until 48 hours after their delivery into customs custody; and

Provided further, That storage charges shall accrue from the time of their delivery into customs custody if held in bond for a period of more than 30 days; and

Provided further, That all baggage shall, if not taken within 72 hours from the time they were received in customs premises be subject to a minimum charge equal to seven days' storage.

MERCHANDISE SUBJECT TO INTERNAL REVENUE TAX

PAR. II. The storage charges on imported merchandise subject to internal revenue tax stored in the Customs Internal Revenue Bonded Warehouse at the Manila Custom-house shall be at the rate of ₱0.10 per ton, weight or measurement, per day. The minimum charge for consignments not exceeding 500 kilos in weight, or 20 cubic feet in measurement stored in customs-internal revenue bonded warehouse shall be ₱0.70. Storage shall begin on the following day upon receipt of packages in the warehouse.

GENERAL PROVISIONS

PAR. III. Merchandise, supplies or materials imported by any branch of the National or Federal Government shall be exempt from storage charges.

Provided, That whenever such consignments shall have been imported by others for the National or Federal Government or branches thereof, or for sale thereto, storage shall be charged thereon as hereinbefore provided.

PAR. IV. Transit consignments manifested as such for Philippine ports of entry other than the port of first arrival shall be exempt from storage charges, provided the same are forwarded to the port of destination within five days, including Sundays and holidays after the cargo of the importing vessel has been officially declared to be discharged. If not shipped within the said five days, storage shall accrue thereafter at the rate of ₱0.10 per ton, weight or measurement, per day.

PAR. V. Foreign transit cargo transhipped at a port of entry in the Philippines destined for foreign ports shall be forwarded to destination within 10 days after the cargo of the importing vessel has been officially declared to be discharged. If not forwarded within the said period, storage charges shall thereafter be collected at the rate of ₱0.10 per ton, weight or measurement, per day.

PAR. VI. Storage charges shall be imposed at the rate of ₱0.15 per ton, weight or measurement, per day on all overlanded or mis-imported cargo, not destined for the Philippines and not claimed within five days after the vessel from which unladen has been officially declared to be discharged, but which is claimed thereafter for re-exportation, such storage to accrue after the expiration of said five days.

PAR. VII. Unmanifested cargo, intended for the Philippines, or the destination of which is unknown, but which is claimed by ships' agents for disposal therein, shall, if released by the Collector of Customs, be treated as regular import cargo and shall be subject to the rates of storage charges fixed by Paragraph I (a) to (l) of this order.

PAR. VIII. All other unclaimed merchandise including overlanded cargo, the destination of which is unknown, and which is not claimed within 90 days after arrival of the importing vessels, shall pay storage from the date of discharge of the last package on the pier to the time authority is issued permitting entry to be filed therefor. From the date it is permitted to be entered, unclaimed merchandise shall be treated as though originally landed on that date and shall be granted five working days' grace (except when sold at public auction) before storage again accrues, with a reduction of not exceeding 10 per cent on account of packages designated for examination.

PAR. IX. Packages designated for examination shall not include those the delivery of which is suspended pending compliance

with customs regulations, and which are not exempt from storage charges authorized by subparagraphs (a), (e), (g), (j) and (k) of these regulations. Storage shall not, however, accrue on such packages during the suspension of delivery until the expiration of three days immediately following the date of notice of release to importer. Packages which remain in customs premises pursuant to Philippine Health Service regulation, or to regulations promulgated by other government bureaus and offices, shall be exempt from the payment of storage during the time such regulations are being complied with.

PAR. X. Storage at the daily rate of ₱0.30 per ton, weight or measurement, shall accrue on all goods sold at the public auction and not removed on the following day after the completion of public auction.

PAR. XI. Any consignment of merchandise, with the exception of those mentioned in Paragraphs III, IV, V, VI, VII, VIII, and IX, for which no entry has been filed within 15 days after the date of arrival of the vessel, or if the entry therefor has been filed but the consignment remains at the piers, bulkheads, warehouses, or other customs premises, for a period of more than 30 days after the arrival of the vessel, shall be subject to storage charges at the rate of ₱0.20 per ton, weight or measurement, per day, under the same provisions as those stated in Paragraph I hereof. The storage charges herein prescribed accrue from the date storage on the cargo of the importing vessel begins to the date of delivery of the merchandise; but with respect to those cases which may be designated for examination upon entry being filed, two working days' grace are hereby allowed for the examination of such cases, the storage charges to accrue again at the expiration thereof. The provisions for a higher rate embodied in this paragraph shall not be construed as applying to private bonded warehouses these rate of storage shall not exceed ₱0.10 per ton, weight or measurement, per day.

PAR. XII. Merchandise brought to a pier or bulkhead for export and not loaded on a vessel within 72 hours shall thereafter pay storage charges up to the hour of loading at the rate of ₱0.15 per ton, weight or measurement, per day or part thereof. Any merchandise sent to the piers or bulkheads for shipment and not laden on the exporting vessel for which it was intended must be removed from the pier or bulkhead within 72 hours after the departure of said vessel,

and if not so removed shall be liable to a storage charge of ₱0.30 per ton, weight or measurement, per day or part thereof, or if in the opinion of the Insular Collector of Customs or his duly authorized representative, the removal of such cargo from the piers or bulkheads is necessary, the expenses of the handling and any other charges that may accrue thereon shall be borne by the owner or the consigner.

PAR. XIII. The storage charges hereinabove prescribed accruing on cargo which has not been withdrawn or removed from customs premises in due time may, for good reasons, be reduced or remitted by the Insular Collector of Customs at Manila, or by the Collectors of Customs at subports of entry, subject to the approval of the Auditor General.

PAR. XIV. The provisions of this Order shall become effective January 1, 1946.

PAR. XV. Philippine Customs officers shall give due publicity to the terms of this Order.

MELECIO FABROS

Acting Insular Collector of Customs

Approved:

J. HERNANDEZ
Secretary of Finance

CUSTOMS ADMINISTRATIVE ORDER No. 11

March 1, 1946

REVOKING CUSTOMS ADMINISTRATIVE ORDER No. 1, NEW SERIES, AND PROVIDING SPECIAL FEES FOR ARMY AND NAVY VESSELS.

PARAGRAPH I. Customs Administrative Order No. 1 suspending the pilotage fees in Manila, Cebu and Iloilo is hereby revoked and the provisions of Paragraphs I to XV of Customs Administrative Order No. 399 are hereby revived.

PAR. II. Upon the establishment of the Pilots' Associations of Manila, Cebu and Iloilo, pilotage fees on vessels of the U. S. Army and Navy subject thereto shall be at such rates as may be agreed upon between the Army and Navy authorities on the one hand and the corresponding pilots, association on the other, and upon approval of such rates by the Secretary of Finance, on recommend-

ation of the Insular Collector of Customs, such rates shall apply, the provisions of Paragraph II, III, IV, V, VIII, IX, X, XI, XIII, XIV, and XV of Customs Administrative Order No. 399 to the contrary notwithstanding.

MELECIO FABROS

Acting Insular Collector of Customs

Approved:

J. HERNANDEZ
Secretary of Finance

CUSTOMS ADMINISTRATIVE ORDER No. 12

March 21, 1946

AMENDING SUBPARAGRAPHS (a), (b), (e) AND (f) OF PARAGRAPH I, AND PARAGRAPH XI, OF CUSTOMS ADMINISTRATIVE ORDER No. 9.

To all Collectors of Customs at subports of entry, Chiefs of Divisions, Manila Customhouse, importers and others concerned:

PARAGRAPH I. Subparagraphs (a), (b), (e), and (f) of Paragraph I of Customs Administrative Order No. 9 are hereby amended to read as follows:

AT MANILA

Merchandise remaining in Government piers and Customs premises:

"(a) Consignments of merchandise, or parts thereof, not designated for examination and which remain in any Government pier or on Customs premises for more than three working days after the cargo of the vessel from which such merchandise was landed has been officially declared to be discharged, shall prior to their delivery to the importer or transfer to any private bonded warehouse, pay storage at the rate of ₱0.50 per ton, weight or measurement, per day, except as provided in Paragraph XI hereof.

"*Provided*, That if an importer or broker demands delivery within the period of three days after the cargo of the importing vessel has been officially declared to be discharged by filing his delivery permit and having sufficient means of transportation to withdraw his merchandise from the piers, and the merchandise covered by the permit cannot be delivered by the Manila Terminal Company, Inc., because of the congestion of merchandise and traffic

in the piers, the three-day period herein provided shall be extended for the duration of such congestion upon certification by the Manager of the Manila Terminal Company, Inc., to the Insular Collector of Customs that such congestion exists. When not so certified by the Manager of the Manila Terminal Company, Inc., the Surveyor of the port, acting in behalf of the Insular Collector of Customs, may, from time to time, extend the three-day period, upon the petition of importers or brokers, if in his opinion the condition of the piers does not permit movement of merchandise during that period; and

"Provided further, That in no case shall storage be assessed at less than ₱1.75 on any single package of less than 3.34 tons or at less than ₱3.50 on any consignment consisting of two or more packages of less than 6.667 tons, on any day or fraction thereof; and

"Provided further, That storage may be calculated by American measurement ton of 1.1326124 cubic meters (40 cubic feet, in the discretion of the Insular Collector of Customs; and

"Provided further, That storage charges shall not be collected on merchandise designated for examination, except as hereafter provided.

"The Surveyor of the Port shall, immediately upon receipt of advice of the Manila Terminal Company, Inc., as to the time of the completion of discharge of cargo from a vessel lying alongside the pier or bulkhead, cause to be posted a notice at the pier and in the customhouse announcing that fact and giving the day upon which storage on cargo from such vessel will begin.

(b) Goods, packages, or parts of consignment designated for examination which shall remain in the piers or customs premises more than 48 hours after examination shall be subject to storage at the rate of ₱1 per ton, weight or measurement, per day;

"Provided, however, That in case said articles are taken from the piers or bulkhead within the said 48 hours—excluding Sundays and holidays—after the examination the same shall be exempt from storage charges, except as hereinafter provided; and

"Provided further, That no storage shall be assessed on any of the articles herein referred to prior to the expiration of three working days after the cargo of the vessel from which such articles have been officially declared so discharged, although 48 hours have already elapsed after the examination of said articles; and

"Provided further, That in no case shall the free storage period be more than five working days, counted from the date the cargo of the importing vessel is officially declared to be discharged."

Merchandise transferred to, or stored in, any general bonded warehouse:

(a) Consignments of merchandise, or parts thereof, not held for examination which are transferred to general bonded warehouses and remain therein for more than three working days after the cargo of the steamer from which such merchandise was landed has been officially declared to be discharged, shall pay storage at the rate of ₱0.50 per ton, weight or measurement, per day, under the same special provisions as those stated in subparagraph (a);

"Provided, That in no case shall storage be assessed at less than ₱1.75 on any single package of less than 3.334 tons, or at less than ₱3.50 on any consignment consisting of two or more packages of less than 6.667 tons, on any day or fraction thereof.

"(f) Goods, packages, or parts of consignments designated for examination which shall remain in any bonded warehouse for more than 48 hours after examination shall be subject to storage at the rate of ₱1 per ton, weight or measurement, per day.

"Provided, however, That in case said articles are taken from the bonded warehouses within the said 48 hours—excluding Sundays and holidays—after examination, the same shall be exempt from storage charges, except as hereinafter provided; and

"Provided further, That no storage shall be assessed on any of the articles herein referred to prior to the expiration of three working days after the cargo on the vessel from which such articles have been landed has been officially declared as discharged, although 48 hours have already elapsed after the examination of said articles; and

"Provided further, That in no case shall the free storage period be more than five working days, counted from the date the cargo of the importing vessel is officially declared to be discharged."

PAR. II. Paragraph XI of Customs Administrative Order No. 9 is hereby amended to read as follows:

"PAR. XI. Any consignment of merchandise, with the exception of those mentioned in paragraphs III, IV, V, VI, VII, VIII, and IX, for which no entry has been filed within 15 days after the date of arrival of the vessel, or if the entry therefor has been filed but the consignment remains at the piers, bulkheads, warehouses, or other customs premises, for a period of more than 30 days after the arrival of the vessels, shall be subject to storage charges at the rate of ₱1 per ton, weight or measurement, per day, under the same provisions as those stated in paragraph I hereof. The storage charges herein prescribed accrue from the date storage on the cargo of the importing

vessel begins to the date of delivery of the merchandise; but with respect to those cases which may be designated for examination upon entry being filed, two working days' grace are hereby allowed for the examination of such cases, the storage charges to accrue again at the expiration thereof. The provisions for a higher rate embodied in this paragraph shall not be construed as applying to private bonded warehouses whose rate of storage shall not exceed ₱0.50 per ton, weight or measurement, per day."

PAR. III. This Order shall take effect on April 1, 1946.

PAR. IV. Philippine Customs officers shall give due publicity to the terms of this order.

MELECIO FABROS

Acting Insular Collector of Customs

Approved:

J. HERNANDEZ

Secretary of Finance

CUSTOM ADMINISTRATIVE ORDER No. 13

March 25, 1946

INCREASING THE RATES OF OVERTIME PAY OF CLASSIFIED AND UNCLASSIFIED EMPLOYEES, FURTHER AMENDING C. A. O. 274 AND REVOKING C. A. O. 8 (1945).

PARAGRAPH I. Paragraph II of Customs Administrative Order No. 274, as amended by Customs Administrative Order No. 359, is hereby further amended to read as follows:

"Under authority of section 1162 of the Administrative Code of 1917, the following rates of compensation per hour for overtime work performed by classified and unclassified employees of the Bureau of Customs, who may be duly assigned outside of regular office hours of business, are hereby prescribed as follows:

Deputy surveyors, wharfingers and appraisers	₱1.50
Inspectors and examiners	1.20
Storekeepers	1.00
Liquidators	0.80
Clerks	0.70
Guards, checkers, weighers, gatekeepers, harbor policemen and openers	0.60

PAR. II. The provisions of this order shall take effect on April 1, 1946.

PAR. III. Customs Administrative Order No. 8 (1945) is hereby revoked.

PAR. IV. Philippine Customs officers and employees shall give due publicity and enforcement to the terms hereof.

MELECIO FABROS

Acting Insular Collector of Customs

Approved:

J. HERNANDEZ

Secretary of Finance

CUSTOMS ADMINISTRATIVE ORDER No. 14

May 27, 1946

STORAGE CHARGES: AMENDING CUSTOMS ADMINISTRATIVE ORDER No. 9, AS AMENDED BY CUSTOMS ADMINISTRATIVE ORDER NO. 12. CUSTOMS ADMINISTRATIVE ORDER NO. 12, SUPERSEDED.

To all Collectors of Customs at subports of entry, Chiefs of Divisions, Manila Customhouse, importers and others concerned:

PARAGRAPH I. Sub-paragraphs (a), (b), (c) and (f) of Paragraph I of Customs Administrative Order No. 9 as amended by Custom Administrative Order No. 12, are hereby further amended to read as follows:

AT MANILA

Merchandise remaining in Government piers and Customs premises:

"(a) Consignments of merchandise, or parts thereof, not designated for examination and which remain in any Government pier or on customs premises for more than three working days after the cargo of the vessel from which such merchandise was landed has been officially declared to be discharged shall, prior to their delivery to the importer or transfer to any private bonded warehouse, pay storage at the rate of ₱2 per ton, weight or measurement, per day, except as provided in Paragraph XI hereof.

"Provided, That if an importer or broker demands delivery within the period of three days after the cargo of the importing vessel has been officially declared to be discharged by filing his delivery permit and having sufficient means of transportation to withdraw his merchandise from the piers, and the merchandise covered by the permit cannot be delivered by the Manila Terminal Company, Inc., because of the congestion of merchandise and traffic in the piers, the three-day period herein provided shall be extended for the duration of such con-

gestion upon certification by the Manager of the Manila Terminal Company, Inc., to the Insular Collector of Customs that such congestion exists. When not so certified by the Manager of the Manila Terminal Company, Inc., the Surveyor of the Port, acting in behalf of the Insular Collector of Customs, may, from time to time, extend the three-day period, upon the petition of importers or brokers, if in his opinion the condition of the piers does not permit movement of merchandise during that period; and

"Provided further, That in no case shall storage be assessed at less than ₱7 on any single package of less than 3.334 tons or at less than ₱14 on any consignment consisting of two or more packages of less than 6.667 tons, on any day or fraction thereof; and

"Provided further, That storage may be calculated by American measurement ton of 1.1326124 cubic meters (40 cubic feet), in the discretion of the Insular Collector of Customs; and

"Provided further, That storage charges shall not be collected on merchandise designated for examination, except as hereafter provided.

"The Surveyor of the port shall, immediately upon receipt of advice of the Manila Terminal Company, Inc., as to the time of the completion of discharge of cargo from a vessel lying alongside the pier or bulkhead, cause to be posted a notice at the pier and in the customhouse announcing that fact and giving the day upon which storage on cargo from such vessel will begin,

(b) Goods, packages, or parts of consignment designated for examination which shall remain in the piers or customs premises more than 48 hours after examination shall be subject to storage at the rate of ₱4 per ton, weight or measurement, per day;

"Provided, however, That in case said articles are taken from the piers or bulkhead within the said 48 hours—excluding Sundays and holidays—after the examination the same shall be exempt from storage charges, except as hereinafter provided; and

"Provided further, That no storage shall be assessed on any of the articles herein referred to prior to the expiration of three working days after the cargo of the vessel from which such articles have been landed has been officially declared so discharged, although 48 hours have already elapsed after the examination of said articles; and

"Provided further, That in no case shall the free storage period be more than five working days, counted from the date the cargo of the importing vessel is officially declared to be discharged."

Merchandise transferred to, or stored in, any general bonded warehouse:

"(c) Consignments of merchandise, or part, thereof, not held for examination which are transferred to general bonded warehouses and remain therein for more than three working days after the cargo of the steamer from which such merchandise was landed has been officially declared to be discharged, shall pay storage at the rate of ₱2 per ton, weight or measurement, per day, under the same special provisions as those stated in subparagraph (a);

"Provided, That in no case shall storage be assessed at less than ₱7 on any single package of less than 3.334 tons, or at less than ₱14 on any consignment consisting of two or more packages of less than 6.667 tons, on any day or fraction thereof.

"(f) Goods, packages, or parts of consignments designated for examination which shall remain in any bonded warehouse for more than 48 hours after examination shall be subject to storage at the rate of ₱4 per ton, weight or measurement, per day.

"Provided, however, That in case said articles are taken from the bonded warehouses within the said 48 hours—excluding Sundays and holidays—after examination, the same shall be exempt from storage charges, except as hereinafter provided; and

"Provided further, That no storage shall be assessed on any of the articles herein referred to prior to the expiration of three working days after the cargo on the vessel from which such articles have been landed has been officially declared as discharged, although 48 hours have already elapsed after the examination of said articles; and

"Provided further, That in no case shall the free storage period be more than five working days, counted from the date the cargo of the importing vessel is officially declared to be discharged."

PAR. II. Paragraph XI of Customs, Administrative Order No. 9 as amended by Customs Administrative Order No. 12, is hereby further amended to read as follows:

"PAR. XI. Any consignment of merchandise, with the exception of those mentioned in Paragraphs III, IV, V, VI, VII, VIII, and IX, for which no entry has been filed within 15 days after the date of arrival of the vessel, or if the entry therefor has been filed but the consignment remains at the piers, bulkheads, warehouses, or other customs premises, for a period of more than 30 days after the arrival of the vessel, shall be subject to storage charges at the rate of ₱4 per ton, weight or measurement, per day, under the same provisions

as those stated in paragraph I hereof. The storage charges herein prescribed accrue from the date storage on the cargo of the importing vessel begins to the date of delivery of the merchandise; but with respect to those cases which may be designated for examination upon entry being filed, two working days' grace are hereby allowed for the examination of such cases, the storage charges to accrue again at the expiration thereof. The provisions for a higher rate embodied in this paragraph shall not be construed as applying to private bonded warehouses whose rate of storage shall not exceed ₱2 per ton, weight or measurement, per day."

PAR. III. Customs Administrative Order No. 12 is hereby superseded.

PAR. IV. This Order shall take effect on June 17, 1946.

PAR. V. Philippine Customs officers shall give due publicity to the terms of this order.

MELECIO FABROS

Acting Insular Collector of Customs

Approved:

ELPIDIO QUIRINO

*Vice-President and
Secretary of Finance*

CUSTOM ADMINISTRATIVE ORDER No. 15

June 5, 1946

GIVING FIRST PRIORITY TO CERTAIN FOREIGN VESSELS

PARAGRAPH I. Pursuant to the authority vested in me by Executive Order No. 108 dated May 8, 1946, it is hereby ordered that any foreign vessel the manifest of which shows at least 50 per cent of cargo consisting of perishables and foodstuffs, including rice, sugar, milk, as well as other essential commodities and articles such as textiles, soap, medical supplies and equipment, fertilizers and building materials shall have the first priority provided in the above-mentioned Executive Order.

shows at least 50 per cent of cargo consist-
PAR. II. This Order shall take effect June 5, 1946.

MELECIO FABROS

Acting Insular Collector of Customs

Approved:

ELPIDIO QUIRINO

*Vice-President and
Secretary of Finance*

CUSTOMS ADMINISTRATIVE ORDER No. 16

June 3, 1946

AMENDING PARAGRAPHS II AND III OF C. A. O. No. 399, AND INCREASING THE PILOTAGE FEES FOR ALL THE ESTABLISHED PILOTAGE DISTRICTS OF THE PHILIPPINES.

PARAGRAPH I. Paragraph II and III of Customs Administrative Order No. 399, dated August 23, 1941, are hereby amended to read as follows:

"PAR. II. Pilotage shall be compulsory for all vessels of 500 gross tons or over docking at or leaving any Government Pier and the following fees shall be paid:

Vessels under 1,000 tons gross	₱30.00
Vessels of 1,000 but less than 3,000 tons gross	50.00
Vessels of 3,000 but less than 10,000 tons gross	75.00
Vessels of 10,000 tons gross or over	110.00

"PAR. III. Pilotage shall be optional for any vessel anchoring or leaving an anchorage in the stream, but should pilotage service be requested and rendered, the following fees shall be paid:

Vessels under 1,000 tons gross	₱25.00
Vessels of 1,000 but less than 3,000 tons gross	30.00
Vessels of 3,000 but less than 10,000 tons gross	45.00
Vessels of 10,000 tons gross or over	55.00

PAR. II. All pilotage fees of whatever nature prescribed in Customs Administrative Order No. 399, dated August 23, 1941, including Paragraphs II and III thereof as amended by this order, are hereby increased by 35 per centum.

PAR. III. This Order shall take effect upon approval of the Honorable, the Secretary of Finance.

MELECIO FABROS

Acting Insular Collector of Customs

Approved: July 1, 1946.

ELPIDIO QUIRINO

Secretary of Finance

CUSTOMS ADMINISTRATIVE ORDER No. 17

July 8, 1946

FIXING RATES FOR TRANSFER IMMIGRANTS' BAGGAGE FROM THE SHIPS TO THE CUSTOMS OFFICE, AMENDING CUSTOMS ADMINISTRATIVE ORDER No. 236, AS AMENDED BY CUSTOMS ADMINISTRATIVE ORDER No. 260.

PARAGRAPH I. Paragraph I of Customs Administrative Order No. 236, as amended

by Customs Administrative Order No. 260, is hereby further amended to read as follows:

"PARAGRAPH I. Under the provisions of Commonwealth Act No. 723, Appropriation Act for the period from October 1, 1945 to June 30, 1946, a flat rate of ₱0.75 per package is hereby fixed for the service rendered in connection with the landing, transportation, and handling of immigrants' baggage from the ships to the Baggage Office at the Customhouse, of which not more than ₱0.30 per piece of baggage shall be paid to the baggage boys for transferring such baggage from the ships to the Baggage Office, and for repacking and for placing examined and released baggage to owners' conveyance."

PAR II. This Order shall take effect upon its approval.

ALFREDO DE LEON
Insular Collector of Customs

Approved:

CRISPIN LLAMADO
Undersecretary of Finance

CUSTOMS ADMINISTRATIVE ORDER NO. 18

July 22, 1946

PROVIDING REGULATIONS FOR THE FREE ENTRY OF UNITED STATES ARTICLES INTO THE PHILIPPINES.

PARAGRAPH I. For the purpose of carrying out the provisions of the United States Public Law 371, known as the "Philippine Trade Act of 1946," particularly those relating to the free entry of United States articles into the Philippines, the following regulations are hereby promulgated for the information and guidance of all concerned.

PAR. II. The pertinent provisions of the Philippine Trade Act of 1946 are hereunder quoted:

"Section 2 (a) (2). The term "United States", when used in a geographical sense, means the States, the District of Columbia, the territories of Alaska and Hawaii, and Puerto Rico."

"Section 2 (a) (5). The term "United States article" means an article which is the product of the United States, unless, in the case of an article produced with the use of materials imported into the United States from many foreign country (except the Philippines) the aggregate value of such imported materials at the time of importation into

the United States was more than twenty per centum of the value of the article imported into the Philippines, the value of such article to be determined in accordance with, and as of the time provided by, the customs laws of the Philippines in effect at the time of importation of such article.
* * *

"Section 311. Free entry of United States articles.

"During the period from the day after the date of the enactment of this Act to July 3, 1954, both dates inclusive, United States articles, entered, or withdrawn from warehouse in the Philippines for consumption shall be admitted free of ordinary customs duty."

PAR. III. Conformably with the above-cited provisions of law, the certificate of origin to be shown on commercial invoices covering United States articles shipped to the Philippines shall be subscribed and sworn to by the manufacturer, seller, or exporter of the articles or by a duly authorized agent of such manufacturer, seller, or exporter before a collector or deputy collector of customs in the United States, or his duly authorized representative, but the collector of customs at the port of entry in the Philippines may require supplementary evidence if he believes that it is necessary. The said certificate of origin shall be in the following form:

DECLARATION AND OATH

"I, the undersigned, do hereby solemnly and truly declare that the above-described articles are the products of the United States, or produced with the use of materials imported into the United States from foreign country (except the Philippines) the aggregate value of such imported materials at the time of importation into the United States does not exceed twenty per centum (20%) of the value of the articles imported into the Philippines."

.....
Manufacturer, seller, or exporter

CERTIFICATE OF COLLECTOR OF CUSTOMS OR AUTHORIZED REPRESENTATIVE

"I hereby certify that the foregoing statement was subscribed and sworn to before me at the port and on the date hereinafter indicated. I further certify that I have investigated the foregoing statements, and am satisfied that they are correct; that said articles are the products of the United States, or produced with the use of materials imported into the United States from foreign country (except the Philippines) the aggregate value of such imported

materials at the time of importation into the United States does not exceed twenty per centum of the value of the articles imported into the Philippines.

Given under my hand and official seal at the port of this day of 19

Collector of Customs or Authorized Representative

PAR. IV. In places where there are no Collectors of Customs, the certificate of origin may be issued by any government official duly designated for the purpose by the Collector of Customs of the customs district where the exporter or shipper resides or has his place of business.

PAR. V. Consignments by freight or mail valued at ₱20 or less are not required to be accompanied by a certificate of origin.

PAR. VI. All customs rules and regulations inconsistent with this Customs Administrative Order, are hereby revoked.

PAR. VII. This Order shall be applicable to shipments of United States articles arriving beginning May 1, 1946.

ALFREDO DE LEON

Insular Collector of Customs

Approved:

CRISPIN LLAMADO

Undersecretary of Finance

CUSTOM ADMINISTRATIVE ORDER No. 19

July 31, 1946

AMENDING CUSTOMS ADMINISTRATIVE ORDER No. 399

PARAGRAPH I. Paragraphs XII, XIII, XIV, XV and XXIX of Customs Administrative Order No. 399, dated August 23, 1941, are hereby amended to read as follows:

"CEBU PILOTS' ASSOCIATION

"PAR. XII. The following fees shall be collected for and on account of the Cebu pilots' Association, subject to the provisions and in the manner hereinafter prescribed:

"PILOTAGE, ENTRANCE AND CLEARANCE

"PAR. XIII. Pilotage through the Cebu Channel (from an imaginary line extending from Bantolinas Point, Mactan Island, due north to the Island of Cebu, to an imaginary line extending from Luis Ledge, Mactan Islands, to Lipata Point, Island of Cebu), shall be optional to all vessels, but should

pilotage services be requested and rendered, the following fees shall be paid:

"Vessels under 2,000 register gross tons	₱37.50
"Vessels of 2,000 and under 5,000 register gross tons	75.00
"Vessels of 5,000 and under 8,000 register gross tons	112.50
"Vessels of 8,000 and under 10,000 register gross tons	150.00
"Vessels of 10,000 register gross tons, or over	187.50

"Vessels taking pilots through the Cebu Channel, upon entrance or clearance, shall be exempt from the berthing or unmooring fees, as the case may be.

"BERTHING FEES

"PAR. XIV. All vessels of 75 register gross tons or over mooring at the Cebu Government Piers and wharves and at the wharves of the Philippine Registering Company, Standard Vacuum Oil Co., Texas Co., Asiatic Petroleum Co., or any other wharf at Opon (Cebu Channel), shall pay the following fees:

"Vessels of 75 and under 150 tons gross register	₱4.00
"Vessels of 150 and under 300 tons gross register	6.00
"Vessels of 300 and under 500 tons gross register	10.50
"Vessels of 500 and under 700 tons gross registered	15.00
"Vessels of 700 and under 1,000 tons gross register	18.00
"Vessels of 1,000 and under 3,000 tons gross register	27.00
"Vessels of 3,000 and under 5,000 tons gross register	37.50
"Vessels of 5,000 and under 7,000 tons gross register	48.00
"Vessels of 7,000 and under 10,000 tons gross register	70.00
"Vessels of 10,000 gross register tons, or over	90.00

"Provided, That vessels of Philippine registry under 500 gross tons docking at any privately owned wharf in the Cebu harbor shall be exempt from paying the above berthing fees unless pilotage services therefor are requested and rendered.

"UNMOORING FEES

"PAR. XV. The employment of a pilot for the purpose of taking vessels of 75 gross tons or over from a wharf or pier in the Cebu Channel, either at the Port of Cebu proper or at Opon, as well as the shifting of such vessels from one berth to an-

other, shall be compulsory and the same fees shall be paid as those charged for berthing.

"PAR. XXIX. When pilotage service is rendered at any port between sunset and sunrise, an additional charge of 100 per cent over the regular pilotage fees shall be paid. This additional charge or overtime fee shall likewise be paid when pilotage service is commenced before and finished after sunset or commenced before and finished after sunrise."

PAR. II. The 35 per cent increase provided in Paragraph II of Customs Administrative Order No. 16 shall not be applied to the terms of this Order.

PAR. III. This Order shall take effect upon approval by the Honorable, the Secretary of Finance.

PAR. IV. Philippine Customs officials shall give due publicity to the terms of this Order.

ALFREDO DE LEON

Insular Collector of Customs

Approved, September 16, 1946.

CRISPIN LLAMADO

Undersecretary of Finance

CUSTOMS ADMINISTRATIVE ORDER No. 20

August 8, 1946

FEES FOR ADMEASUREMENT OF VESSELS; CUSTOMS ADMINISTRATIVE ORDER No. 117 DATED SEPTEMBER 3, 1920, REVOKED.

PARAGRAPH I. By authority of sections 1139 (a) and 1415 of the Administrative Code, the following classification of vessels and fees for the admeasurement thereof are hereby promulgated and shall take effect September 1, 1946:

CLASSIFICATION OF VESSELS

Class 1. Vessels having one or more decks of which the tonnage length is 15 meters, or under.

Class 2. Vessels having one or more decks of which the tonnage length is above 15 meters, and not exceeding 30 meters.

Class 3. Vessels having one or more decks of which the tonnage length is above 30 meters, and not exceeding 45 meters.

Class 4. Vessels having one or more decks of which the tonnage length is above 45 meters, and not exceeding 60 meters.

Class 5. Vessels having one or more decks of which the tonnage length is above 60 meters, and not exceeding 75 meters.

Class 6. Vessels having one or more decks of which the tonnage length is above 75 meters.

Class 7. All open vessels without decks, such as lighters, cascos, bancas, ships, boat, pleasure launches, and other similar craft.

ADMEASUREMENT FEES

The following fees to be assessed on gross tonnage will hereafter be collected at all ports in the Philippines for the admeasurement of vessels:

Class 1—

20 tons or less	₱30.00
20 tons or more	40.00

Class 2—

20 tons or less	45.00
20 tons to 50 tons	60.00
50 tons or more	90.00

Class 3—

100 tons or less	100.00
100 to 200 tons	150.00
200 tons or more	230.00

Class 4—

1,000 tons or less	280.00
1,000 tons or more	380.00

Class 5—

1,000 tons or less	280.00
1,000 tons to 1,500 tons	380.00
1,500 tons or more	380.00
plus ₱1 per ton exceeding 1,500 tons.	

Class 6—

1,500 tons or less	380.00
1,500 tons or more	380.00
plus ₱1 per ton exceeding 1,500 tons.	

Class 7—

More than one ton, per ton	2.00
(Provided that no vessels of Class 7 shall pay less than ₱10 for admeasurement, regardless of her actual tonnage.)	

PAR. II. In case the gross tonnage of any admeasured vessel is increased or reduced by changes or alteration, such readmeasurement as may be necessary to determine her gross tonnage in her new condition shall be made. For such re-admeasurement the fee to be charged and collected shall be either ₱2 per ton of such increase in tonnage or ₱4 per ton of such reduction in tonnage; provided, that in no case shall the fee for such readmeasurement be less than ₱12.

PAR. III. The payment of the above-prescribed fees shall be evidenced by the affixture to the certificate of the admeasurement

and cancellation thereon of customs stamps equivalent to the sum of such fees.

PAR. IV. Customs Administrative Order No. 117, dated September 3, 1920, is hereby revoked.

PAR. V. Philippine Customs officers shall give due publicity to the terms of this Order.

ALFREDO DE LEON
Insular Collector of Customs

Approved:

For the Secretary of Finance

CRISPIN LLAMADO
Undersecretary of Finance

CUSTOMS ADMINISTRATIVE ORDER NO. 21

August 8, 1946

INSPECTION FEES OF VESSELS

PARAGRAPH I. Pursuant to the provisions of section 1415 of the Revised Administrative Code, the following fees for the inspection of vessels shall be collected:

INSPECTION FEES

1. For the inspection of the hull, fire-fighting equipment, life-saving equipment, and navigational equipment of a vessel, the following fees shall be collected based upon the gross tonnage of the vessel as registered in the Bureau of Customs:

Minimum fee for vessels of 50 tons gross or under	₱2.50
For each gross ton and fraction thereof above 50 .....	.02

Fifty per cent will be added to the above fees in the case of vessels intended for the carriage of oil in bulk, molasses, (pilot) or liquid cargo.

2. For the inspection of the main propulsion engine or engines, the following fees shall be collected based upon the total horsepower (HP) of the engines:

Minimum fee for main propulsion engines of 200 horsepower or under....	₱2.50
For each horsepower and fraction thereof of above 200 .....	.01

3. For the inspection of the auxiliary machineries, the following fees shall be collected based upon the total horsepower (HP) of the auxiliaries on board:

Minimum fee for auxiliary machineries of 20 horsepower or under	₱1.50
For each horsepower and fraction thereof of above 20 .....	.02

4. For the inspection of the boiler or boilers, including donkey boilers, the following fees shall be collected based upon the heating surface, including economizers and super-heaters:

Minimum fee for boilers or auxiliary boilers of 3,000 square feet of heating surface or under	₱10.00
For each 100 square feet of heating surface and fraction thereof above 3,000....	0.5

5. For the inspection of air containers, the following fees shall be collected based upon the cubical capacity of the container in cubic feet:

For air containers under 100 cubic feet capacity	₱2.50
For air containers from 100 cubic feet but under 200 cubic feet	5.00
For air containers from 200 cubic feet but under 300 cubic feet	7.50
For every cubic foot or fraction thereof above 300 cubic feet .....	.10

6. For the inspection of the refrigeration machinery and Chambers, including air conditioning equipment, the following fee shall be collected based upon the cubical capacity of the refrigerated and air-conditioned spaces:

Up to 25,000 cubic feet	₱7.50
For each 1,000 cubic feet above 25,000 cubic feet .....	.10

7. For the inspection of the electrical installation, instruments, and generating sets, the following fees shall be collected based upon the rated kilowatt:

Minimum fee for one kilowatt and under	₱5.00
From more than one kilowatt to 25 kilowatts	7.50
From more than 25 kilowatts to 200 kilowatts	15.00
For every kilowatt and fraction thereof over 200 kilowatts .....	.05

PAR. II. Hereafter, no certificate of inspection or special permit to operate a vessel shall be issued unless evidence of payment of the inspection fees as shown above is submitted.

PAR. III. This Order shall take effect upon approval by the Secretary of Finance.

ALFREDO DE LEON
Insular Collector of Customs

Approved, August 29, 1946.

CRISPIN LLAMADO
Undersecretary of Finance

DEPARTMENT OF JUSTICE

ADMINISTRATIVE ORDER No. 184

*September 24, 1946***AUTHORIZING JUDGE-AT-LARGE HERMOGENES CONCEPCION TO HOLD COURT IN LAGUNA**

In the interest of the administration of justice, the Honorable Hermogenes Concepcion, Judge-at-Large, is hereby authorized to hold court in the Province of Laguna, as soon as practicable, for the purpose of trying all kinds of cases and to enter final judgments therein.

ROMAN OZAETA
Secretary of Justice

ADMINISTRATIVE ORDER No. 185

*September 26, 1946***AUTHORIZING JESUS A. ADVINCULA, TEMPORARY CASHIER AND DISBURSING OFFICER OF THE GENERAL LAND REGISTRATION OFFICE, TO DRAW WARRANTS ON THE NATIONAL TREASURY.**

Pursuant to the provisions of section 616 of the Administrative Code, and upon recommendation of the Chief of the General Land Registration Office, Mr. Jesus A. Advincula, temporary cashier and disbursing officer, said Office, is hereby authorized to draw warrants upon the National Treasury, covering salaries, wages and bonuses of officers and employees of said Office, and, upon duly approved vouchers, other expenses properly chargeable against the appropriation for said office, signing as follows:

"For the Chief, General Land Registration Office:

JESUS A. ADVINCULA
Temporary Cashier and Disbursing Officer"

This authority will continue only during the absence of leave of Mr. Liborio E. Gabutina, cashier and disbursing officer of said Office, effective September 28, 1946.

ROMAN OZAETA
Secretary of Justice

ADMINISTRATIVE ORDER No. 187

*October 11, 1946***AUTHORIZING JUDGE OF FIRST INSTANCE CONRADO BARRIOS TO HOLD COURT IN THE CITY OF MANILA FOR A PERIOD OF THREE MONTHS.**

In the interest of the administration of justice, the Honorable Conrado Barrios, Judge of the First Branch, Seventeenth Judicial District, is hereby authorized to hold court in the City of Manila, beginning October 23, 1946, for a period not exceeding three months, for the purpose of trying all kinds of cases and to enter final judgments therein.

ROMAN OZAETA
Secretary of Justice

ADMINISTRATIVE ORDER No. 188

*October 8, 1946***AUTHORIZING CADASTRAL JUDGE SEGUNDO MOSCOSO TO HOLD COURT IN THE SUBPROVINCE OF SQUIJOR.**

In the interest of the administration of justice, the Honorable Segundo Moscoso, Judge of First Instance (Cadastral), is hereby authorized to hold court in the Subprovince of Siquijor, as soon as practicable, for the purpose of trying all kinds of cases and to enter final judgments therein.

ROMAN OZAETA
Secretary of Justice

ADMINISTRATIVE ORDER No. 189

*October 8, 1946***AUTHORIZING JUDGE-AT-LARGE HERMOGENES CONCEPCION TO HOLD COURT IN LEYTE**

In the interest of the administration of justice, the Honorable Hermogenes Concepcion, Judge-at-Large, is hereby authorized to hold court in the Province of Leyte, as soon as practicable, for the purpose of trying all kinds of cases and to enter final judgments therein.

ROMAN OZAETA
Secretary of Justice

ADMINISTRATIVE ORDER No. 190

*October 8, 1946***AUTHORIZING CADASTRAL JUDGE PEDRO VILLAMOR TO HOLD COURT IN MISAMIS OCCIDENTAL.**

In the interest of the administration of justice, the Honorable Pedro Villamor, Judge of First Instance (Cadastral), is hereby authorized to hold court in the Province of Misamis Occidental, as soon as practicable, for the purpose of trying all kinds of cases and to enter final judgment therein.

ROMAN OZAETA
Secretary of Justice

ADMINISTRATIVE ORDER No. 191

*October 8, 1946***AUTHORIZING JUDGE-AT-LARGE EDMUNDO PICCIO TO HOLD COURT IN ANTIQUE**

In the interest of the administration of justice, the Honorable Edmundo Piccio, Judge-at-large, is hereby authorized to hold court in the Province of Antique, as soon as practicable, for the purpose of trying all kinds of cases and to enter final judgments therein.

ROMAN OZAETA
Secretary of Justice

ADMINISTRATIVE ORDER No. 192

*October 12, 1946***AUTHORIZING JUDGE OF FIRST INSTANCE FRANCISCO JOSE TO HOLD COURT IN TARLAC FOR A PERIOD OF THREE MONTHS.**

In the interest of the administration of justice, and in view of the appointment of Judge Salvador Abad Santos, of the Court of First Instance of Tarlac, to the People's Court, the Honorable Francisco Jose, Judge of the Second Branch, Sixth Judicial District, is hereby authorized to hold court in the Province of Tarlac, beginning October 14, 1946, for a period not exceeding three months, for the purpose of trying all kinds of cases and to enter final judgments therein.

ROMAN OZAETA
Secretary of Justice

ADMINISTRATIVE ORDER No. 193

*October 8, 1946***AUTHORIZING JUDGE-AT-LARGE JOSE R. DE VENECIA TO HOLD COURT IN SORSOGON AND MASBATE.**

In the interest of the administration of justice, the Honorable Jose R. de Venecia, Judge-at-large, is hereby authorized to hold court in the Provinces of Sorsogon and Masbate, as soon as practicable, for the purpose of trying all kinds of cases and to enter final judgments therein.

ROMAN OZAETA
Secretary of Justice

ADMINISTRATIVE ORDER No. 194

*October 17, 1946***AUTHORIZING JUDGE OF FIRST INSTANCE HERMOGENES CALUAG TO TRY AND DECIDE IN LEGASPI, ALBAY, ALL CASES PERTAINING TO CATANDUANES.**

In the interest of the administration of justice and pursuant to his request, the Honorable Hermogenes Caluag, Judge of the Fifteenth Judicial District, is hereby authorized to try and decide in Legaspi, Albay, all kinds of cases pertaining to the Province of Catanduanes, whenever the interested parties so agree and the nature of the cases is urgent.

ROMAN OZAETA
Secretary of Justice

ADMINISTRATIVE ORDER No. 195

*October 22, 1946***AUTHORIZING JUDGE OF FIRST INSTANCE EMILIO BENITEZ TO HOLD COURT IN ORAS, SAMAR.**

In the interest of the administration of justice and pursuant to his request, the Honorable Emiliano Benitez, Judge of the Second Branch, Twentieth Judicial District, is hereby authorized to hold court in the municipality of Oras, Province of Samar, as soon as practicable, for the purpose of trying all kinds of cases and to enter final judgments therein.

ROMAN OZAETA
Secretary of Justice

ADMINISTRATIVE ORDER No. 196

*October 24, 1946***AUTHORIZING JUDGE OF FIRST INSTANCE GREGORIO S. NARVASA TO HOLD COURT IN GUIHULNĠGAN, NEGROS ORIENTAL.**

In the interest of the administration of justice, the Honorable Gregorio S. Narvasa, Judge of the Nineteenth Judicial District, is hereby authorized to hold court in the municipality of Guihulnġgan, Province of Negros Oriental at any time he may deem advisable, for the purpose of trying all kinds of cases and to enter final judgments therein.

ROMAN OZAETA
Secretary of Justice

ADMINISTRATIVE ORDER No. 197

*October 24, 1946***AUTHORIZING JUDGE OF FIRST INSTANCE ANATOLIO C. MAÑALAC TO HOLD A SPECIAL TERM OF COURT IN LANAŌ EVERY YEAR.**

In the interest of the administration of justice, and pursuant to his request, the Honorable, Anatolio C. Mañalac, Judge of the Twenty-fourth Judicial District, is hereby authorized to hold a special term of court in Lanao every year at any time he may deem advisable, for the purpose of trying all kinds of cases and to enter final judgments therein.

ROMAN OZAETA
Secretary of Justice

ADMINISTRATIVE ORDER No. 198

*October 28, 1946***DESIGNATING SOLICITOR VICENTE ARGUELLES, OF THE BUREAU OF JUSTICE, JUDGE OF THE THIRD BRANCH OF THE MUNICIPAL COURT OF MANILA DURING THE PERIOD OF SUSPENSION OF THE INCUMBENT JUDGE VICENTE BAUTISTA.**

In the interest of the administration of justice, Mr. Vicente Arguelles, Solicitor, Bureau of Justice, is hereby designated to act as Judge of the Third Branch of the Municipal Court, City of Manila, during the period of the suspension of the incumbent Judge Vicente Bautista.

ROMAN OZAETA
Secretary of Justice

ADMINISTRATIVE ORDER No. 199

*October 22, 1946***AUTHORIZING JUDGE OF FIRST INSTANCE MANUEL ARRANZ TO HOLD COURT IN ECHAGUE AND CABAGAN, ISABELA.**

In the interest of the administration of justice, the Honorable Manuel Arranz, Judge of the Second Judicial District, is hereby authorized to hold court in the municipalities of Echague and Cabagan, Province of Isabela, at any time he may deem advisable, for the purpose of trying all kinds of cases and to enter final judgments therein.

ROMAN OZAETA
Secretary of Justice

ADMINISTRATIVE ORDER No. 201

*October 28, 1946***AUTHORIZING CADASTRAL JUDGE VICENTE SANTIAGO TO HOLD COURT IN LA UNION**

In the interest of the administration of justice, the Honorable Vicente Santiago, Judge of First Instance (Cadastral), is hereby authorized to hold court in the Province of La Union, as soon as practicable, for the purpose of trying all kinds of cases and to enter final judgments therein.

ROMAN OZAETA
Secretary of Justice

DEPARTMENT OF AGRICULTURE AND COMMERCE

GENERAL ADMINISTRATIVE ORDER No. 1

*October 8, 1946***RULES AND REGULATIONS PROHIBITING THE SLAUGHTER OF CARABAOS, MARES AND COWS.**

Pursuant to the provisions of Republic Act No. 11 entitled "An Act to prohibit the slaughtering of male and female carabaos, horses, mares and cows," the following rules and regulations are hereby promulgated for the information and guidance of all concerned:

1. The slaughtering for meat of any carabao, whether male or female, is hereby prohibited unless, after examination of the animal by the Director of Animal Industry or his duly authorized representative, the same is certified to be unfit

either for breeding or for work purposes, in which case a permit may be issued for the slaughter thereof.

2. It is also prohibited to slaughter for meat horses (male or female) and cows (female cattle) without the previous inspection and written permit of the Director of Animal Industry or of any of his duly authorized representative; *Provided*, That in the absence of any duly authorized representative of the Director of Animal Industry in a municipality, the inspection of such animals and the issuance of the slaughter permits shall be made by a meat inspector, or in his absence by the municipal treasurer or his deputy who shall act in the name and under the responsibility of said municipal treasurer.

3. No permit to slaughter mares or cows, whether mature or immature, which are fit for breeding purposes, and male horses fit for work purposes shall be issued.

4. An application to slaughter cows (female cattle), horses and mares for meat purposes shall be filed with any of the officials mentioned in paragraph 2 of this Order, stating the kind of animal, age, sex and condition of the animal, and shall be accompanied by a certificate of ownership or evidence showing that the applicant is the lawful owner of the animal. Upon receipt of the application, the officials concerned shall forthwith examine the animal and if found to be unfit for breeding or work purposes, as the case may be, a permit for its slaughter, using the form duly prescribed for the purpose, shall be issued. In the case, however, of carabaos, the application shall be filed either with the Director of Animal Industry or his duly authorized representative in the locality, who shall make the examination thereof, as provided in section 1 hereof. The application and a duplicate of the permit issued by the corresponding official shall be forwarded to the Bureau of Animal Industry for record purposes.

5. No person shall wilfully or maliciously injure any of the animals mentioned in this Act for the purpose of securing a certification to the effect that the same is not fit for work purposes; nor shall any person wilfully or maliciously render unfit for breeding purposes any of such animals.

6. Any person who violates the provisions of this Order shall be punished in accordance with Republic Act No. 11 with a fine of not less than two hundred pesos (P200) nor more than five hundred pesos (P500) or by imprisonment of not less than two months nor more than six months or both fine and imprisonment at the discretion of the court.

7. This Order shall take effect on October 8, 1946.

MARIANO GARCHITORENA
*Secretary of Agriculture
and Commerce*

BUREAU OF PLANT INDUSTRY

ADMINISTRATIVE ORDER NO. 1, s. 1946

September 2, 1946

DECLARING TACLOBAN, LEYTE, A PORT OF ENTRY FOR PLANTS, PLANT MATERIALS, SMALL ANIMALS, ETC.

Whereas, Tacloban, Leyte, has been declared an open port of entry;

Whereas, the Bureau of Customs has already opened its branch office in that port; and

Whereas, many foreign vessels calling at the port of Tacloban may bring in plants, plant materials and small animals through said port;

Therefore, pursuant to the provisions of Legislative Act No. 3027, approved March 8, 1922, entitled "An Act to protect the agricultural industries of the Philippine Islands from injurious plant pest and diseases existing in foreign countries, etc.," which authority is now vested in the Director of Plant Industry and the Secretary of Agriculture and Commerce by virtue of Act No. 3639, it is hereby declared:

SECTION 1. That the port of Tacloban, Leyte, is an open port of entry for plants, plant materials, small animals, etc;

SEC. 2. That the importation of plants, plant materials, small animals, etc. can be made through said port of entry;

SEC. 3. That a Plant Quarantine Office shall be operated by this Bureau in said port; and

SEC. 4. That this Administrative Order shall take effect upon the approval of the Honorable the Secretary of Agriculture and Commerce.

FELIX D. MARAMBA
Director of Plant Industry

Concurred in:

CRISPIN LLAMADO
Undersecretary of Finance

Approved, September 4, 1946.

MARIANO GARCHITORENA
Secretary of Agriculture and Commerce

BUREAU OF COMMERCE**COMMERCE ADMINISTRATIVE ORDER NO. 1***August 20, 1946*

**NEW SCHEDULE OF FEES TO BE COLLECTED BY
THE BUREAU OF COMMERCE, FOR SERVICES
NOT REQUIRED BY LAW TO BE RENDERED
FREE, EFFECTIVE SEPTEMBER 15, 1946.**

SECTION 1. Under the provisions of section 572 of the Administrative Code, the Bureau of Commerce is hereby authorized to collect the following fees for the services hereunder enumerated, which are not required by law to be rendered free.

Trade-Marks and Trade-Names

For recording the assignment, change of the name of the owner, or any other document affecting change of ownership thereof	P15.00
For the issuance of a certificate regarding the registration of a trade-mark or trade-name	8.00
For the issuance of a certificate regarding the non-registration of a trade-mark or trade-name	8.00
For the issuance of an affirmative certificate regarding the registration of a document in connection with a trade-mark or trade-name	5.00
For the issuance of a negative certificate regarding the non-registration of a document in connection with a trade-mark or trade-name	5.00
For the filing of any document in connection with trade-marks or trade-names not required by law to be filed	5.00
For other services not above specified.....	5.00

Business Names, Aliases, and Bulk Sales

For the issuance of an affirmative certificate regarding registration of a name or any document in connection therewith	2.00
For the issuance of a negative certificate regarding the registration of a name or any document in connection therewith..	2.00
For the issuance of a negative certificate regarding the registration of a name or any document in connection therewith..	2.00
For other services not above specified.....	2.00

Commercial Brokers

For the issuance of a merchandise broker's license	8.00
For the issuance of a money or exchange broker's license	8.00
For the issuance of a ship broker's license	8.00

For the issuance of a renewal license	8.00
For the issuance of a duplicate copy of the license already granted	5.00
For any other service not above enumerated	5.00

Real Estate Brokers

For the issuance of an original real estate broker's license	15.00
For the issuance of the renewal license, annually	15.00
For the issuance of a license to each officer or agent, other than the president, of the broker corporation, and to each of the managing partners of the broker partnership, in excess of one	8.00
For the issuance of one real estate salesman's license, annually	8.00
For the issuance of a license to each real estate broker's branch office, annually....	8.00
For the change of name or address of license on the records of the Bureau of Commerce	4.00
For transfer of salesman's license upon change of employer	4.00
For the issuance of a duplicate license ...	2.00
For the reinstatement of license within one year after its surrender	4.00
For authorizing an association of real estate brokers	75.00
For any other service not above enumerated	5.00

Fertilizers

For the issuance of a temporary permit to sell a brand of fertilizer during the pendency of the registration of the same	8.00
For the issuance of an affirmative certificate regarding the registration of a brand of fertilizer	8.00
For the issuance of a negative certificate regarding the non-registration of a brand of fertilizer	5.00
For furnishing official tags or labels	per 100— 5.00
For any other service not above enumerated	5.00

SEC. 2. All previous orders or parts thereof inconsistent herewith are hereby repealed.

SEC. 3. This Order shall take effect September 15, 1946, and shall be published in the *Official Gazette* for the information of all concerned.

MARIANO GARCHITORENA
*Secretary of Agriculture
and Commerce*

Recommended:

S. R. MENDINUETO
Director, Bureau of Commerce

DEPARTMENT OF INSTRUCTION

DEPARTMENT ORDER No. 14, s. 1946

*August 21, 1946***MANNER OF ADDRESSING OFFICIAL COMMUNICATIONS***To Chiefs of Bureaus and Offices of the Department:*

1. The usual form of addressing official communications in use before the war should hereafter be observed. Thus:

(a) The President of the Philippines should always be addressed as "His Excellency."

(b) The following officials should be addressed as "The Honorable":

- (1) The Vice President of the Philippines.
- (2) Ambassadors, other public ministers, and consuls.
- (3) Department Secretaries and Under-secretaries, and other officials with the same rank.
- (4) Senators and Congressmen.
- (5) Justices of the Supreme Court and judges of inferior courts.
- (6) Provincial Governors and City Mayors.

2. Department Order No. 7, s. 1945, entitled "How To Address the Head of the Department," is hereby revoked.

MANUEL V. GALLEGOS
Secretary of Instruction

DEPARTMENT ORDER No. 15, s. 1946

*October 7, 1946***PROCEDURE OF SUBMITTING REQUISITIONS TO THE DEPARTMENT OF INSTRUCTION FOR APPROVAL***To Chiefs of Bureaus and Offices of the Department:*

1. Hereafter all requisitions which require the approval of the Department of Instruction, in accordance with the provisions of Department Order No. 11, s. 1946, should be sent direct to this Office and not through merchants or their representatives. After approving these requisitions, the Department will deliver them to the Division of Purchase and Supply, or to the publishers if the requisitions are for subscriptions for magazines and newspapers.

2. Every requisition should be submitted to this Office in quadruplicate (four copies) if made by a chief of a bureau or an office; and in triplicate (three copies) if made by a provincial treasurer or a division superintendent of schools.

3. It is desired that the instructions in this Department Order be brought to the attention of the subordinate personnel concerned of your bureau or office.

MANUEL V. GALLEGOS
Secretary of Instruction

DEPARTMENT OF NATIONAL DEFENSE

DEPARTMENT ORDER No. 15

*October 11, 1946***DESIGNATION OF THE FREQUENCY 8,280 KILOCYCLES AS THE HIGH FREQUENCY DISTRESS FREQUENCY BY PHILIPPINE STATIONS IN THE MOBILE SERVICE, UNDER CERTAIN CONDITIONS.**

In order to increase the safety of life at sea (ships), and over the sea (aircrafts), the frequency 8,280 kilocycles is hereby designated as the interim Philippine aeronautical and marine high frequency distress frequency until such time when a permanent frequency is decided upon and put into effect by the forthcoming International Telecommunications Conference.

The use of the frequency 8,280 kilocycles by stations in the mobile service is subject to the following restrictions:

(a) In requesting help from the maritime and aeronautical services the frequency 8,280 kilocycles shall be used for distress purposes in addition to 500 kilocycles by ship stations and aircraft stations so fitted and in lieu thereof when 500 kilocycles is not available it may be used only for calls and replies as well as for distress traffic urgent and safety messages and signals.

(b) Transmissions on this frequency with the exception of urgent and safety messages and signals must cease twice each hour for 3 minutes beginning at X:15 and X:45 o'clock Greenwich Civil Time (GCT).

Compliance hereto by all parties concerned is enjoined.

RUPERTO K. KANGLEON
Secretary

DECISIONS OF THE SUPREME COURT

[CA-No. 226. February 23, 1946]

**THE PEOPLE OF THE PHILIPPINES, plaintiff and appellee, vs.
DELFIN BAUTISTA, defendant and appellant**

1. **CRIMINAL LAW; QUALIFIED SEDUCTION; COHABITATION AFTER OFFENDED PARTY IS OVER EIGHTEEN YEARS OF AGE; JUDICIAL INQUIRY INTO PATERNITY OF RESULTING OFFSPRING.**—In cases of seduction, proofs of the alleged cohabitation between the complainant and the accused after the former has reached the age of eighteen, which results in pregnancy, cannot be taken into consideration. As a matter of law, the paternity of the resulting offspring cannot even be the subject of judicial inquiry.
2. **ID.; ID.; CONTINUING OFFENSE OF SEDUCTION.**—There is no such thing as a continuing offense or a continuation of the offense of seduction. The loss of virginity during the minority of the offended party (*i. e.*, while under eighteen years of age), except in cases of seduction of a sister or descendant as penalized in the second paragraph of article 337 of the Revised Penal Code, consummates the offense, and the virginity of one cannot be lost twice. Strictly speaking, the carnal relations subsequent to the first coition are beyond the pale of the law which penalizes seduction. It is plain that cohabitation with a woman during her majority, whether for the first or a subsequent time, cannot and does not constitute an offense under the law in question.
3. **ID.; ID.; EVIDENCE; TESTIMONY OF INSTRUCTED WITNESS.**—The testimony of any witness who may have been previously instructed as to what to say and what not to say before the court and who admits having obeyed such instruction, cannot be relied upon; and when in other respects the testimony of such witness appears exaggerated, self-contradictory, evasive, and otherwise denotes lack of sincerity and candor, it is certainly not safe for the court to accept it for any purpose, and much less as a basis for conviction.
4. **ID.; ID.; ID.; TESTIMONY OF INJURED WOMAN NOT TO BE RECEIVED WITH PRECIPITATE CREDULITY.**—In crimes against chastity, the testimony of the injured woman should not be received with precipitate credulity; and when the conviction depends at any vital point upon her uncorroborated testimony, it should not be accepted unless her sincerity and candor are free from suspicion.

APPEAL from a judgment of the Court of First Instance of Laguna. Paredes, J.

The facts are stated in the opinion of the court.

Jose Ma. Recto for appellant.

Acting First Assistant Solicitor-General Amparo and
Special Attorney Zamuco for appellee.

OZAETA, J.:

This appeal has been brought to reverse a judgment of the Court of First Instance of Laguna, finding the appellant guilty of qualified seduction and sentencing him to an indeterminate penalty of from eight months to one year and ten months of *prisión correccional*, to indemnify the offended party, Concordia Barquilla, in the sum of ₱1,000, with subsidiary imprisonment in case of insolvency, to support the offspring named Trinidad Bautista, and to pay the costs.

The accused, Delfin Bautista, aged thirty years, a Doctor of Medicine, of San Pablo, Laguna, is a married man, he having contracted matrimony in Vienna on December 12, 1937, with Josephine Petrack of that city, by whom he has two children who were born in October, 1938 and October, 1939, respectively. After his return to the Philippines from Vienna with his nineteen-year-old wife in May 1938, he established his conjugal home at 20 Basa Street, San Pablo, in a three-story building of which the third floor contained the bedroom; the second floor, the living room, the dining room, and the kitchen; and the first floor, his clinic and the office of his father, Enrique Bautista.

The complainant Concordia Barquilla, who was born on August 16, 1922, entered the service as a housemaid of the accused Doctor Bautista in December 1938, after her parents had contracted an indebtedness of ₱70 with Enrique Bautista, the father of the accused.

In the month of October 1940, after she had reached the age of eighteen years and while she was still in the service of the accused, the said complainant conceived, and on June 8, 1941, gave birth to a baby girl whom she christened Trinidad Bautista.

Concordia Barquilla left the service of Doctor Bautista on January 18, 1941, and initiated this criminal prosecution shortly thereafter against her former master. It is alleged in her complaint that from the month of May 1939 until the month of January 1941, in the City of San Pablo, the accused, being a domestic and a person in charge of the care and custody of the complainant, a virgin over twelve and under eighteen years of age, by means of deceit, trickery, and abuse of confidence and authority and with criminal intent to debauch, defile, and disrepute her, did then and there criminally, feloniously, illegally, and voluntarily have sexual intercourses with the said complainant, as a result of which she became pregnant.

Before considering the inculpatory evidence to determine whether or not it is sufficient to overcome the presumption of innocence in favor of the accused, we deem it necessary

to clarify the issue in the light of the law applicable thereto. It will be noted from what has been said above that the complaint embraces two periods which must not be confused: (1) from May 1939 to August 15, 1940, when the complainant was under eighteen years of age; and (2) from August 16, 1940, to January 1941, when she was over eighteen years. This division is necessary because, to determine the criminal liability of the accused under the complaint, the second period is absolutely immaterial, inasmuch as under the law the complainant could not be the object, nor could she complain, of seduction after she had reached the age of eighteen years. The allegations of the complaint cover both of the following articles of the Revised Penal Code:

"ART. 337. *Qualified seduction*.—The seduction of a virgin over twelve years and under eighteen years of age, committed by any person in public authority, priest, house-servant, domestic, guardian, teacher, or any person who, in any capacity, shall be entrusted with the education or custody of the woman seduced, shall be punished by *prisión correccional* in its minimum and medium periods.

* * * * *

"Under the provisions of this chapter, seduction is committed when the offender has carnal knowledge of any of the persons and under the circumstances described herein.

"ART. 338. *Simple seduction*.—The seduction of a woman who is single or a widow of good reputation, over twelve but under eighteen years of age, committed by means of deceit, shall be punished by *arresto mayor*."

To determine whether the accused is guilty of having seduced the complainant, *i. e.*, of having had carnal knowledge of her while she was a virgin over twelve years and under eighteen years of age, only the proofs of the alleged cohabitation between the complainant and the accused during the first period embraced in the complaint can be considered. In other words, proofs of the alleged cohabitation subsequent to August 15, 1940, which resulted in complainant's pregnancy, cannot be taken into consideration for the reason that she was then already over eighteen years of age. As a matter of law, the paternity of the resulting offspring could not even be the subject of judicial inquiry.

Thus, article 132 of the Civil Code provides:

"ART. 132. When the acknowledgment is made separately by the father or the mother, the name of the child's other parent shall not be revealed by the parent acknowledging it, nor shall any circumstance be mentioned by which such person might be recognized.

"No public officer shall authenticate any document drawn in violation of this provision and should he do so notwithstanding this prohibition shall be liable to a fine of from 125 to 500 pesetas, and the words containing such revelation shall be stricken out."

Under article 141 of the same Code, with two exceptions not pertinent herein, "no court shall permit the filing of

any complaint, the purpose of which may be to investigate, either directly or indirectly, the paternity of illegitimate children who have not the legal status of natural children."

In the case of *Infante vs. Figueras* (4 Phil., 738), which was an action to compel the defendant to recognize a natural daughter as his, the trial court permitted the mother and the maternal grandmother of the child and another witness to testify, against the objection and exception of the defendant, to the relations which existed between the defendant and the mother of said child prior to the birth of the latter, and that the defendant was the father of the child. The plaintiff in that case contended that in actions to compel acknowledgment of a natural child arising either under paragraph 1 or paragraph 2 of article 135 of the Civil Code, evidence of the relationship and evidence tending to show that defendant is in fact the father of the child is competent and admissible as throwing light upon his subsequent conduct in the treatment of the child. But this Supreme Court, overruling such contention and reversing the decision of the trial court, said:

"* * * It is very clear that in every case such evidence would have great weight. Evidence having been received in this case to show that the defendant was in fact the father of the child, the court was easily led to the decision that the defendant had so treated the child as to give the latter the continuous possession of the status of a natural child. Its influence was undoubtedly preponderating upon this point, but the question is, Can it under the law have such influence? Does the law allow the judge, in his decision on the question of the existence of a writing under paragraph 1, or the possession of status under paragraph 2, to be influenced by evidence showing that the defendant in fact was the father of the child? Let us suppose that the facts showing the possession of the status of a natural child are in themselves insufficient to prove such possession, but when proof of the parentage is introduced for the purpose of explaining the evidence in regard to the possession of the status of a natural child, the latter evidence becomes sufficient for that purpose. In such case it is seen, of course, that the judgment against the defendant rests, not upon the evidence that the child possessed the status of a natural child, but upon the evidence that the defendant was in fact its father, and the effect of such a holding would be to compel the defendant to recognize the child, not because the child had possess continuously the status of a natural child, but because the plaintiff had proved that the defendant was in fact its father. This is a result which the Civil Code does not authorize. If it had been the intention of the legislators to have allowed this kind of evidence to turn the scale, the code might as well have provided, as was done in the case of the mother, that proof of this fact would compel a recognition. In this particular case evidence was introduced to show that the defendant had sent money and medicine to Presentacion Infante, the mother. That evidence, standing by itself, has no significance. It acquires all its force by reason of the evidence previously introduced to the effect that the defendant was the father of Presentacion's child." (Pages 741, 742.)

See also *Borres and Barza vs. Municipality of Panay* (42 Phil., 643), and cases therein cited.

It is argued in the brief for the appellee that the carnal relations had after the complainant had reached the age of eighteen years constitute a continuation of the criminal offense begun before. This view is untenable. There is no such thing as a continuing offense or a continuation of the offense of seduction. The loss of virginity during the minority of the offended party (*i. e.*, while under eighteen years of age)¹ consummates the offense, and the virginity of one cannot be lost twice. Strictly speaking, the carnal relations subsequent to the first coition are beyond the pale of the law which penalizes seduction. It is plain that cohabitation with a woman during her majority, whether for the first or a subsequent time, cannot and does not constitute an offense under the law in question.

With the issue in view as thus clarified, to wit: whether the accused had carnal knowledge of the complainant in and between May 1939 and August 15, 1940, we proceed to examine the evidence for the prosecution on that point.

The complainant Concordia Barquilla testified on direct examination in substance as follows: On the night of May 18, 1939, Doctor Bautista and his wife left the house saying that they were going to some place. A while later Doctor Bautista returned and locked the door. The complainant was then taking care of Doctor Bautista's baby. Doctor Bautista then and there embraced and kissed her and tried to raise her dress and lay her down on the bed. She told him: "Don't do that because you are a married man," to which he replied: "Don't talk; I will take care of you because I am not married to Josefina." He went on with his advances and forced the complainant and succeeded in having sexual intercourse with her, and when she began to shout he stuffed her mouth. "The night after that he had another sexual intercourse with me, and after the lapse of one week he succeeded in having sexual intercourse with me every night." Doctor Bautista's wife, according to the complainant, "does not stay in the house the whole day. She goes out after breakfast and comes back at night," usually at twelve o'clock midnight, because she usually stays in the store of her friend Mrs. Avanzado. The complainant said she gave birth on June 8, 1941.

Upon cross-examination she testified in part as follows:

"Q. You said your child was born on June 8, 1941. At your conception of that child you were more than 18 years?—A. Not yet.

"Q. Do you remember the date of your birth?—A. Yes, sir.

¹ Excepting the seduction of a sister or descendant as penalized in the second paragraph of article 337.

"Q. When were you born?—A. August 16, 1922.

"Q. When did you conceive that child?—A. In October 1940.

"Q. So from August 16, 1922, to October 1940, by mathematical calculation, you were 18 years old, and 2 months?—A. No, because it seems to me that I conceived twice, at my first conception I was given medicine by Doctor Bautista.

"Q. I refer to your child. You said you conceived of her in October 1940, is that right?—A. Before I conceived again I was given medicine.

"Q. But from October 1940, that was the time when you conceived of your present child?—A. Yes, sir.

"Q. So at the time of your conception of that child you were 18 years and 2 months because you said you were born on August 16, 1922?—A. Maybe.

* * * * *

"Q. Will you state to the court what date in May, 1939, when Doctor Bautista had sexual intercourse for the first time with you?—A. I don't remember the exact date but I remember the month and year.

"COURT:—Q. Did you not state May 18, 1939?—A. I did not say that." (Pages 8, 9, 10, t. s. n.)

She further testified: "The succeeding night I resisted but he told me to keep my mouth shut because my parents had a debt to him and told me that if I did not accede to his desire he would file a complaint against my father, so that I acceded to his desire."

"Q. And from that date after [until] you left the house of Doctor Bautista, almost every night Doctor Bautista had sexual intercourse with you?—A. Yes.

"Q. That is, covering a period of one year and six months, almost?—A. Yes.

"Q. The first night Doctor Bautista had sexual intercourse with you, you said you were holding a child of Doctor Bautista, is that true?—A. Yes.

"Q. You were sitting or standing at that time?—A. I was sitting down.

"Q. What is the age of that child you were holding?—A. I don't remember if that child was one year old or less.

"Q. And Doctor Bautista as soon as he approached you, tried to embrace and kiss you and raised your dress?—A. Yes.

"Q. And what did you do?—A. I was trying to disentangle myself from him because he was embracing me, but he would not allow me and forced me to lie in bed.

"Q. Will you show to the court graphically how Doctor Bautista embraced you when he approached you that night of May 1939?—A. He embraced me like this (witness embraces her mother, kisses her and hugs her).

"Q. As you tried to show graphically to the court the breast of Doctor Bautista was touching your breast at the time he was kissing you?—A. Yes.

"Q. You said you were holding a child of Doctor Bautista at the time when Doctor Bautista approached you. How was it possible that it happened in the way you graphically demonstrated, and what happened with the child?—A. I was not holding the child then. I was only holding a milk bottle, and when Doctor Bautista made his advances I dropped the bottle." (Pages 12, 13, t. s. n.)

She also revealed for the first time on cross-examination that Doctor Bautista promised to give her ₱1,000 and to marry her. She said she did not mention the promise to give her ₱1,000 when she testified before the municipal judge of the City of San Pablo because her attorney, Mr. Gomez, had told her "not to put that in the records because it has nothing to do with the case and only to put the fact that he would marry me." She said that the promise to give her ₱1,000 was made by Doctor Bautista "the first time he made his advances." She further said: "I acceded to all his desires because of his threats that he would file a complaint against my parents. I pity my parents." But, she said, she did not ask her parents about their supposed indebtedness until she left the service of Doctor Bautista.

On redirect examination the complainant testified for the first time that in July 1939 the accused gave her two kinds of capsules, one red and the other white, instructing her to take two white capsules before every meal and two red capsules after meals. On recross-examination she testified that before filing the complaint she informed her lawyers (she was assisted by two attorneys as private prosecutors) about the medicine that she had been taking, but that they told her "not to put that fact in writing," and that that was the reason why it did not appear in her testimony before the municipal judge.

The only other witness called by the prosecution to corroborate the alleged sexual intercourse between the accused and the complainant in the month of May 1939 was one Maria Veridiano, a 35-year-old woman, who testified that she entered the service of the accused as a cook on *October 12, 1939*; that while she was in the service of Doctor Bautista as a cook, one day during the month of *May 1939*, about 5 o'clock in the afternoon, she went upstairs to the room (meaning the bedroom) to get some rice, and she saw Concordia Barquilla being embraced by Doctor Bautista, and when Doctor Bautista saw her he sent her away; that she did not see other persons in that room besides Doctor Bautista, Concordia Barquilla, and a child of Doctor Bautista. Further testifying on direct examination this witness swore:

"Q. When you saw the accused and the offended party inside the room, how far were you from them?—A. I was about one *braza* away from them; they were near the door.

"Q. That room is a sleeping room, or a dining room?—A. Sleeping room of Doctor Bautista.

"Q. Was the door of the room open or closed when you saw the two?—A. It was closed.

"Q. How could you see them if the door of the room was closed?—A. I opened the door because I was going to get some rice.

"Q. Was the rice inside that room?—A. It was in that room." (Pages 27, 28, t. s. n.)

According to this witness, after the lapse of one week, at noontime and in the same room, she again saw the accused embracing the complainant, who was then holding a child; that when she saw them she again went down; and that she went up that room that second time to get the coffee pot.

On cross-examination she reiterated that she entered the service of Doctor Bautista as a cook on October 12, 1939, whereupon she was interrogated by the court as follows:

"Q. And when did you see this act you are describing now, what month and year?—A. When I was already in the service of Doctor Bautista, in the month of May.

"Q. Do you mean to say May 1939?—A. I did not stay long in the service after I saw those incidents.

"Q. But May of what year?—A. In the month of May that same year.

"Q. 1939?—A. Yes, sir." (Page 32, t. s. n.)

Upon analyzing the testimony of the complainant and her witness Maria Veridiano, one is struck by the apparent lack of candor of the former and the manifest inherent incredibility of the testimony of the latter. If we are to believe the first part of the testimony of the complainant, she was raped by the accused on the night of May 18, 1939. But in another part of her testimony she gave the court to understand that she acceded to the advances of the accused because the latter promised to give her ₱1,000 and to marry her. Later on she practically nullified those alleged promises by saying: "I acceded to all his desires because of his threats that he would file a complaint against my parents. I pity my parents." Aside from that, it will be recalled that at the beginning of her testimony on direct examination she categorically stated that the first sexual intercourse with her occurred on the night of May 18, 1939; but on cross-examination she said she did not remember the exact date but only the month and year, and when she was asked by the court if she had not said *May 18, 1939*, she replied that she did not say that. Again, at first she said that she was holding the baby when the accused embraced and kissed her; but after she had been made to demonstrate how the accused embraced and kissed her, when she was made to explain how that could have been done while she was holding the baby, she asserted that she was not holding the baby then but only a milk bottle, which she said she dropped when the accused made his advances. Moreover, it appears from her testimony that, at least, when she testified before the municipal judge during the preliminary investigation, she deliberately withheld certain vital alleged facts, such as the promise to

give her ₦1,000 and the use of abortive medicines, in obedience to the instructions of her attorney, Mr. Gomez. Needless to say, the testimony of any witness who may have been previously instructed as to what to say and what not to say before the court and who admits, having obeyed such instruction, cannot be relied upon; and when in other respects the testimony of such witness appears exaggerated, self-contradictory, evasive, and otherwise denotes lack of sincerity and candor, it is certainly not safe for the court to accept it for any purpose, and much less as a basis for conviction.

We find manifest exaggeration in the testimony of the complaining witness that from May 18, 1939, to January 17, 1941, a period of one year and eight months, the accused cohabited with her every night, or almost every night, in the conjugal bed; and to make the court believe such exaggeration she swore that the wife of the accused was almost always absent from home from morning to midnight because she stayed in the store of a friend of hers during that time—another palpable exaggeration. The evasiveness of her testimony on cross-examination can be readily seen from what has been quoted above. For instance, after denying that she was more than eighteen years of age when she conceived her child, who was born on June 8, 1941, and after admitting that she was born on August 16, 1922, and that she conceived her child in October 1940, she was asked whether it was not true that in October 1940 she was eighteen years and two months old, to which she replied: "No, because it seems to me that I conceived twice, at my first conception I was given medicine by Dr. Bautista." It is transparent from her testimony that she was conscious of the importance of establishing the fact that she was under eighteen years of age when the seduction took place.

More incredible still, to our mind, is the testimony of Maria Veridiano. She repeatedly and categorically stated that she entered the service of the accused as a cook on October 12, 1939, and yet she pretended to have seen the accused embracing the complainant in his bedroom on the third floor of the house at 5 o'clock one afternoon in May 1939; and that one week thereafter, at noontime and in the same room, she again saw the accused repeating the same act. The apparent purpose of her testimony was to corroborate that of the complaining witness to the effect that she was seduced in May 1939. But it will be recalled that according to the complainant the first cohabitation with her took place on the *night* of May 18, 1939, after the accused *had locked the door*; that the second cohabitation took place the following night, "and after the lapse of

one week he succeeded in having sexual intercourse with me every night." The complainant never mentioned any attempt on the part of the accused to have sexual intercourse with her at five o'clock in the afternoon or at twelve o'clock noon or at any other time of the day. If we were to believe the witness Maria Veridiano as well as the complainant, it would result that the accused was not satisfied with having carnal knowledge of his maidservant every night but had to indulge in it at other times of the day, even during the period of menstruation. The testimony of this witness strikes us as inherently incredible. Aside from the fact that according to her she was not yet in the service of the accused in May 1939, she having entered it on October 12, 1939, and therefore she had no opportunity to intrude into the privacy of the accused as claimed by her, by opening without first knocking at the closed door of his bedroom, the purpose claimed by her in going to that room on the two occasions—to get rice on the first, and to get his coffee pot on the second—is manifestly false. The bedroom was on the third floor of the house while the living rooms, the dining room, and the kitchen were on the second floor. The bedroom is not the place where the rice and the coffee pot are usually kept. In this connection the wife of the accused testified that Maria Veridiano entered her service as a laundress in October 1939 and stayed in the service for only about two weeks; that said woman was never their cook and never cooked rice; that in 1939 she (Mrs. Bautista) kept her rice on the second floor, "in the dining room, by the stairs leading to the third floor"; and that she never kept rice in the bedroom.

We must therefore reject the testimony of the witness Maria Veridiano as completely incredible. Hence there remains only the uncorroborated testimony of the complaining witness Concordia Barquilla as to her alleged seduction by the accused in May 1939. From an analysis of her testimony as hereinbefore made, we cannot but entertain serious doubts as to its veracity. In the case of *People vs. Fausto* (51 Phil., 852, 856), this court said:

"On more than one occasion in the past this court has had occasion to point out that, in crimes against chastity, the testimony of the injured woman should not be received with precipitate credulity; and when the conviction depends at any vital point upon her uncorroborated testimony, it should not be accepted unless her sincerity and candor are free from suspicion."

We reaffirm that pronouncement as sound and in consonance with the wisdom of the ages and the experience of mankind on the subject. In the Scriptures it is writ: "There be three things which are too wonderful for me, yea, four

which I know not: The way of an eagle in the air; the way of a serpent upon a rock; the way of a ship in the midst of the sea; and the way of a man with a maid. Such is the way of an adulterous woman; she eateth, and wipeth her mouth, and saith, I have done no wickedness." (Proverbs, 30:18-20.)

In the present case the trial court was unduly influenced in its appreciation of the testimony of the complainant as to her alleged seduction by the accused in May 1939 by the physical fact that on June 8, 1941, she gave birth to a child whose paternity she attributed to the accused. The trial court thus reasoned out: Nature always asserts itself. The complainant would not attribute the paternity of her child to the accused if he were not the real father. And if he was really the father, he must be the one who had seduced the mother in May 1939 as claimed by her. The faultiness of such reasoning is too apparent for comment.

In the case of *Infante vs. Figueras (supra)*, this court noted that the evidence tending to show that the defendant was in fact the father of the child easily led the trial court to the decision that the defendant had so treated the child as to give the latter the continuous possession of the status of a natural child. That was so because there was a necessary connection between the fact of paternity and the subsequent conduct of the father towards the child, since the former explained the latter. Nevertheless, since the law did not permit the investigation of paternity, this court discarded that fact and held that it was error on the part of the trial court to be influenced thereby. In the present case there is no necessary connection between the alleged paternity of the child conceived in October 1940 and the alleged cohabitation in May 1939. Even assuming for the sake of argument that the accused cohabited with the complainant in October 1940, as a result of which said child was born, it would not necessarily follow that there was cohabitation between its parents in May 1939 or at any other time prior to August 16, 1940, when the complainant was under eighteen years of age. And, again assuming that the accused is the father of said child, it would not be strange if the complainant should pretend to extend backward her relations with him in order to bring the fruit of her sin within the pale of the law not only to secure support for her child from the accused but also to obtain indemnity from him. In her situation the end would seem to justify the means.

The ultimate effect of the decision of the trial court in this case, wherein it unduly allowed itself to be influenced by the testimony of the complainant that the accused is

the father of her child, is to convict the accused upon a forbidden and incompetent proof—that of the paternity of an illegitimate child conceived and begotten after the mother who acknowledges it had reached the age of eighteen years, when cohabitation with her was not an offense under the criminal law invoked in her behalf. This, we hold, is a reversible error.

Since the evidence for the prosecution has not proved the guilt of the accused beyond reasonable doubt, we do not deem it necessary to consider the evidence for the defense to the effect that three different young men other than the accused courted or had amorous relations with the complainant, and that one of them is the father of her child.

The judgment is reversed and the appellant is acquitted, with costs *de oficio*.

De Joya, Perfecto, Hilado, and Bengzon, JJ., concur.

Judgment reversed; defendant acquitted.

[No. L-57. February 25, 1946]

JOSE BELMONTE, plaintiff and appellant, *vs.* ANGEL MARIN, defendant and appellee

1. EJECTMENT; APPEAL; APPEAL BOND UNNECESSARY WHERE SUPERSEDEAS BOND IS FILED.—As the purpose of the appeal bond is to insure the payment of all costs which the Court of First Instance may award against the appellant, and as the latter had admittedly filed a supersedeas bond in the sum of eighty pesos which is also answerable for “costs down to the time of the final judgment,” the filing of the appeal bond was unnecessary.
2. ID.; WHEN IS FAILURE TO PAY RENT NOT GROUND FOR.—The lessor may, under article 1569 of the Civil Code, judicially dispossess the lessee for “default in the payment of the price agreed upon.” But where such default is based on the fact that the rent sought to be collected, is not that agreed upon, an action for ejectment will not lie.

APPEAL from a judgment of the Court of First Instance of Manila. Abad Santos, J.

The facts are stated in the opinion of the court.

Jose Belmonte in his own behalf.

Monteza & Manikan for appellee.

PARAS, J.:

This is an unlawful detainer case originating from the Municipal Court of the City of Manila which rendered a decision in favor of the plaintiff. Upon appeal by the defendant, and after a trial *de novo*, the Court of First In-

stance of Manila absolved him from the complaint, at the same time decreeing that the rent which should be paid by the defendant to the plaintiff beginning August, 1945, is ₱50. The case is now before us on appeal by the plaintiff.

The latter erroneously contends, under his first assignment of error, that the Court of First Instance should have ordered the dismissal of defendant's appeal from the decision of the Municipal Court in view of his failure to file an appeal bond for the sum of ₱25. As the purpose of the appeal bond is to insure the payment of all costs which the Court of First Instance may award against the appellant, and as the defendant herein had admittedly filed a supersedeas bond in the sum of ₱80 which is also answerable for "costs down to the time of the final judgment," the filing of the appeal bond was unnecessary. *Fernando vs. De la Cruz* (61 Phil., 436).

The defendant does not controvert the plaintiff's contention that the former is holding the premises located at No. 1608 Oroquieta, Manila, under a month-to-month contract of lease; and the only question raised by the plaintiff's second assignment of error is one of fact, namely: Whether the defendant had defaulted in the payment of the stipulated rents for March, April, May and June, 1945, in a sense warranting his ejectment.

The lessor may, under article 1569 of the Civil Code, judicially dispossess the lessee for "default in the payment of the price agreed upon." But, after a careful perusal of the entire record, we have come to the belief that the defendant had in fact refused to pay said rents because the plaintiff sought to collect an amount (₱50) beyond that agreed upon. Indeed, the rental charged by plaintiff and actually paid by defendant for December, 1944, and January, 1945, was ₱40, the attempt of plaintiff to collect ₱50 without defendant's previous conformity having commenced in February, 1945, with the further warning by the plaintiff to the defendant that said rent would be increased to ₱60 beginning March, 1945. The defendant had purposely stopped paying the increased rent for the reason that, so the answer alleges, "plaintiff had formed the habit of raising and raising it until lately he demanded exorbitant rates." At this point, it need only be pointed out that the rents in question steadily rose from the initial amount of ₱20 to ₱25, ₱30, ₱40 and ₱50, with the further threat by the plaintiff to make the same ₱60. It is not necessary to decide whether said rates exceed the authorized limits, since our finding that the alleged unpaid rents had not been previously stipulated by the parties is sufficient to

dispose of the present appeal adversely to plaintiff's pretense that the Court of First Instance erred in not sentencing the defendant to vacate the premises involved herein and to pay ₱50 a month beginning March, 1945.

Our view is not calculated to curtail or violate plaintiff's proprietary rights or his freedom of contract, as safeguarded and delimited by the Constitution and the law. But we cannot be so insensitive to the present housing situation as to fail to make an appeal, however faint it may prove to be, for owners to be more human and less opportunistic by retaining, at least during the emergency, their old tenants, provided of course they are willing and able to pay a reasonable rental which will in all likelihood be lower than what would be offered by contenders. As a matter of fact, the idea involved in our appeal has been crystallized in Commonwealth Act No. 689, enacted on October 15, 1945, penalizing "speculation on rents of buildings destined for dwelling purposes" and providing that "the fact that the rents are unjust and unreasonable shall constitute a valid defense" in a suit for ejection or for the collection of rents.

Whether the plaintiff may dispossess the defendant through an action based on the expiration or termination of the lease (article 1569, Civil Code) is a matter not herein ventilated. This is true, notwithstanding plaintiff's allegation that he needs the premises for his law office and to accommodate his brother who is a fire victim, since this allegation, though expressive of his projected use, is not the basis of the cause of action. Even so, there is evidence to the effect that the plaintiff owns several houses in Manila and his brother has been living with him at his residence on Quiricada Street, Manila, wherein the plaintiff also has his law office.

The plaintiff likewise charges the defendant with having cooked inside the house with firewood, a complaint which is obviously flimsy, if not puerile, because it is of common knowledge that firewood is in general use as a fuel, in the total absence of gas and in view of the very limited supply of electric stoves. Besides, there is absolutely no indication in the proof that, under the lease, the defendant is prohibited either from cooking inside the premises or from employing firewood for the purpose.

The appealed judgment is affirmed, with costs against the appellant. So ordered.

Moran, C. J., Jaranilla, Pablo, and Briones, JJ., concur.

Feria, J., I concur with the result.

Judgment affirmed.

[No. L-45. February 26, 1946]

ANGEL JOSE REALTY CORP., plaintiff and appellee, *vs.* FELIX GALAO ET AL., defendants. BERNARDINA GALAO and FONG LAY, appellants.

1. CONTEMPT; VALIDITY OF ORDER VIOLATED.—Before contempt could be committed, it is a prerequisite that the order issued by the court which was violated be a valid and legal one. Without a lawful order having been issued, no contempt of court could be committed.
2. EXECUTION; EJECTMENT; NOTICE TO ADVERSE PARTY AND FAILURE TO PAY OR DEPOSIT RENTS.—Pursuant to section 8 of Rule 72 of the Rules of Court, the writ of execution may only be issued by the court in ejectment cases after notice to the adverse party and if the rents have not been paid or deposited by him.

APPEAL from a judgment of the Court of First Instance of Manila. Diaz, J.

The facts are stated in the opinion of the court.

Susano A. Velazquez for appellants.

Pablo Ruiz Jose for appellee.

JARANILLA, J.:

This contempt proceeding arose from civil case No. A-47 of the Municipal Court of Manila and G. R. No. L-30 (41 Off. Gaz., 873), of this court in a previous appeal. The appellants in the present case were the defendants and appellants in that appeal. In the instant incident for contempt the Court of First Instance of Manila in civil case No. 70380 sentenced the appellants Bernardina Galao and Fong Lay to be imprisoned for five days and each to pay a fine of ₱50.

The pertinent facts of the case are as follows:

On April 25, 1945, the Municipal Court of Manila rendered a decision in civil case No. A-47 adjudging the appellants to pay the rent of the premises that they were occupying and ordering them to vacate the same. They appealed said decision and perfected their appeal within the period prescribed by law.

On May 16, 1945, the plaintiff and appellee herein filed an *ex parte* petition praying for the issuance of a writ of execution of the judgment, which was appealed, and the said Municipal Court, without any notice to the appellants, granted the petition and issued a writ of execution.

On May 25, 1945, in view of the fact that the complaint filed in the case did not seek any other damages than the payment of rent, the said execution was ordered suspended by the court for the reason that the current rents due from March to May 1945, inclusive, had already been deposited with the court.

On May 29, after fifteen days since the appeal in the case had been perfected, the plaintiff and appellee again filed a petition, without any previous notice to the defendants and appellants, praying that an alias writ of execution be issued by the Municipal Court, which prayer was granted. The Sheriff of Manila thereupon executed the judgment and ordered the appellants to vacate the premises in question; so that the appellants were driven from the premises and did not have a place where to sleep on that occasion.

At the bottom of the writ of execution it was noted that the appellants might stay the writ of execution by filing a supersedeas bond of ₱200, but the Sheriff failed to give them the chance to file said bond before proceeding to eject them from the premises.

About one hour after the said appellants had been ejected from the premises they returned to occupy them again and took temporary possession thereof for lack of a place in which to stay and sleep that night and in so doing they had to break the padlock of the door.

The following day, which was the 30th of May, being a legal holiday, the appellants could not make the deposit in court of the supersedeas bond of ₱200 required in the writ of execution above mentioned, which bond was only filed on May 31, 1945.

Before approving this supersedeas bond the court set the matter for hearing with due notice to both parties and after having been informed that the appellants were not given the chance to deposit the bond before entering the premises, the judge of the Municipal Court approved the bond and declared untenable the claim of the plaintiff and appellee that the defendants and appellants had committed contempt of court for breaking into the premises after they had been ejected therefrom. The Municipal Court forwarded the case after the incident above referred to had been submitted to said court without any action thereon. The plaintiff and appellee, however, filed written charges in the Court of First Instance of Manila accusing the defendants and appellants of contempt of court, as a result of which the latter were convicted by said court as above related.

The appellants assign four errors allegedly committed by the court below, which read:

"1. The lower court incurred in error in trying the case at all for lack of original as well as appellate jurisdiction.

"2. Having tried the case, the lower court incurred in error in not taking the failure of the Municipal Court to act on the charge in writing, as either a dismissal of the charge or an acquittal of the defendants.

"3. The lower court incurred in error in, having tried the case, not acquitting the defendants on their defense of double jeopardy.

"4. The lower court incurred in error in not finding that there was no contempt."

After a perusal of the record we consider it expedient that these assignments be reduced to the sole proposition of whether or not the defendants and appellants committed contempt of court in view of the facts above stated.

It appears that the Municipal Court of Manila had already lost jurisdiction over the case due to the perfection of the appeal by the defendants in the ejectment proceedings. But even if the question of jurisdiction is not considered here, it is uncontroverted that when said Municipal Court issued the writ of execution on the 29th of May 1945 the rents pertaining to the said month of May had already been deposited with the court by the appellants. For that reason the Municipal Court could not legally issue the writ of execution in question, ejecting the appellants from the premises during the month of May 1945. (Section 8, Rule 72, Rules of Court.) Moreover, according to said section 8 of Rule 72 of the Rules of Court, before a writ of execution could be issued, upon motion of the plaintiff, the defendant should have notice thereof—which was not complied with in this case.

Before contempt could be committed, it is a prerequisite that the order issued by the court which was violated be a valid and legal one. Without a lawful order having been issued, no contempt of court could be committed. So has it been held by this court in the following cases:

"For disobedience or resistance of a lawful order of court a person may be punished for contempt, but a court has no authority to punish anyone for disobedience or resistance of an order made without authority." (*Chanco vs. Madrilejos*, 9 Phil., 356.)

"That an order, void for want of jurisdiction may be disobeyed without incurring contempt, appears to be settled by decisions of the Supreme Court of the United States. * * * But if the command was in whole or in part beyond the power of the court, the writ, or so much as was in excess of jurisdiction, was void, and the court had no right in law to punish for any contempt of its unauthorized requirements." (*Weigall vs. Shuster*, 11 Phil., 340, 345.)

Pursuant to said section 8 of Rule 72 of the Rules of Court, we repeat, the writ of execution may only be issued by the court in ejectment cases after notice to the adverse party and if the rents have not been paid or deposited by him. These, however, are not the facts in the instant case, where the express provisions of the law were utterly disregarded, and therefore the said order of execution, which originated this contempt proceeding, was not validly and legally issued.

Wherefore the appealed judgment is reversed and the defendants and appellants are acquitted of the charges with costs *de oficio*. So ordered.

Moran, C. J., Paras, Feria, Pablo, and Briones, JJ., concur.

Judgment reversed; defendants acquitted.

[No. L-71. February 26, 1946]

THE DIRECTOR OF LANDS, petitioner, *vs.* ALEJO ABISIA ET AL., claimants. FILOMENA LLANDA and LUCIA LLANDA, petitioners and appellants.

LAND REGISTRATION; CANCELLATION OF ORIGINAL, AND ISSUANCE OF NEW CERTIFICATE OF TITLE; AUTHORITY OF COURT TO IMPOSE CONDITIONS.—Under section 112 of Act No. 496, the court may order the issuance of a new certificate of title upon such terms and conditions as it may deem proper, for the protection of any creditors, heirs or other parties in interest, if any there should be, as in the case of summary settlement and adjudication under the Rules of Court.

APPEAL from a judgment of the Court of First Instance of Cebu. Duterte, J.

The facts are stated in the opinion of the court.

Filemon Sotto for appellants.

First Assistant Solicitor-General Reyes and *Solicitor Alik-pala* for petitioner.

HILADO, J.:

On September 15, 1921, original certificate of title No. 8809 of the Property Registry of the Province of Cebu was issued, covering cadastral lot No. 7482 of the City of Cebu, in favor and in the names of Antonia, Remedios, Antolina, Jose, and Juan, all surnamed Brigaudit, the first as the owner of 4/8 and the last four as the owners each of 1/8 undivided interest in the land together with the improvements existing thereon. These registered owners were brothers and sisters who had inherited the said parcel of land and its improvements from their deceased parents. In the course of time they also successively died, leaving no will, nor descendants, nor ascendants, with the exception of Antonia Brigaudit who left two legitimate daughters, the present appellants Filomena Llanda and Lucia Llanda.

On June 20, 1945, Filomena Llanda, by counsel, filed with the Court of First Instance of Cebu a verified petition, praying, upon the grounds therein alleged, that after the proper proceedings the said original certificate of title No. 8809 be ordered cancelled and in its stead a new one

issued by the Register of Deeds in favor and in the names of the said Filomena Llanda and her sister Lucia Llanda, share and share alike. The Court of First Instance of Cebu ordered the publication of the proper notice in the newspaper *Morning Times* of Cebu, advising the whole world, particularly any interested persons, of the filing of said petition, and setting the hearing thereof for the 23rd of July, 1945. The notice was published in the said newspaper once a week for three consecutive weeks prior to the date of the hearing; and on the 23rd of July, 1945, at the hour fixed in the notice, the hearing was held, no opposition to the petition having been presented.

The said court after receiving the evidence of the petitioners, granted their petition, and ordered the Register of Deeds of the Province of Cebu to cancel the said original certificate of title No. 8809 covering said lot No. 7482 and, in its stead, to issue a new one in the names of Filomena Llanda, of legal age, married to Guillermo Villostubo, Filipino, and resident in the City of Cebu, and Lucia Llanda, of legal age, married to Faustino Velez, Filipino, and resident in the City of Cebu, share and share alike, subject to the following condition:

“Este pronunciamiento estará sujeto a la reclamación de cualquier heredero, acreedor, legatario o de cualquiera persona interesada, dentro del plazo de dos años desde la fecha de esta decision.”

Counsel for Filomena Llanda and Lucia Llanda, in their behalf, filed on July 27, 1945, a motion for reconsideration, praying that the foregoing condition upon which the said court had granted their petition of June 20, 1945, be eliminated from the Court's decision. That motion for reconsideration having been denied, this appeal has been interposed in *forma pauperis* by the said petitioners, which appeal raises the single question of whether or not the lower court erred in subjecting its order to the aforesaid condition.

Section 112 of Act No. 496 contains the following provisions pertinent to the question thus presented:

“* * * Any registered owner or other person in interest may at any time apply by petition to the court, upon the ground that registered interests of any description, whether vested, contingent, expectant or inchoate, have terminated and ceased; or that new interests have arisen or been created which do not appear upon the certificate; * * * and the court shall have jurisdiction to hear and determine the petition after notice to all parties in interest and may order the entry of a new certificate, * * * or grant any other relief upon such terms and conditions, requiring security if necessary, as it may deem proper: * * *.” (Italics supplied.)

In the case of Government of the Philippine Islands *vs.* Serafica (61 Phil., 93, 102), which in all essential respects

is similar to the one at bar, this Court laid down the following procedure, which the lower court in the case at bar has followed:

"However, the Justices who concur in this decision are of the opinion that, in order to better safeguard the rights of those who may have an interest in the land, the trial court should proceed to the publication of the petition in the manner provided in section 597 of the Code of Civil Procedure and that a guardian *ad litem* should first be appointed to legally represent the minor Veronica Abalos. If after the said publications and the subsequent hearing, the material and essential allegations of the petition appear to have been proven, then the said court shall grant the said petition, approve the subdivision plan, cancel original certificate of title No. 7154 and require the register of deeds to issue new certificates of title to the new lots in favor of the respective actual owners thereof."

If the petitioners herein had resorted to the procedure laid down in the Rules of Court for the summary settlement of estates of small value, any adjudication in their favor would have been subjected to the conditions and limitations provided in Rule 74, sections 3, 4, and 5. Instead of doing so, they directly filed their petition in the cadastral case under section 112 of Act No. 496, and the lower court rightly required the adoption of the same safeguards for the protection of any creditors, heirs or other parties in interest, if any there should be, as in the case of such summary settlement and adjudication under the Rules of Court. Besides, the very law under which their petition was presented, section 112 of Act No. 496, supplies ample authority for the requirement imposed by the lower court.

The appealed judgment is affirmed without costs.

Ozaeta, Perfecto, De Joya, and Briones, JJ., concur.

Judgment affirmed.

[No. L-225. Febrero 26, 1946]

MAGDALENA COBARRUBIAS, recurrente, *contra* ARSENIO P. DIZON, BUENAVENTURA OCAMPO, y PHILIPPINE TRUST COMPANY, recurridos.

1. ALBACEAS Y ADMINISTRADORES; NOMBRAMIENTO; REVOCACIÓN.—El poder del Juzgado de Primera Instancia de dejar sin efecto el nombramiento de un administrador, cuando se haya obtenido el nombramiento mediante representaciones falsas o incorrectas, es indiscutible. El cargo de administrador es uno de confianza. Tan pronto como pierde su confianza en la integridad del solicitante, el Juzgado está plenamente justificado en revocar su nombramiento de administrador.
2. PARTES; RENUNCIA DE SU DERECHO, INTERÉS Y PARTICIPACIÓN; RETIRO DE DICHA RENUNCIA DESPUÉS DE APROBADA POR EL JUZGADO; CASO DE AUTOS.—Cuando el Juzgado declaró en su orden de agosto 28, 1945, que todas las propiedades mencionadas en la solicitud de julio 5, 1945 tal como fué enmendada, pertenecen a las menores R y C, tuvo en cuenta todas las declaraciones hechas

por la recurrente bajo juramento en su moción de julio 20, 1945 y aprobó "la renuncia a favor de ellas por M. C. de todo su derecho, interés y participación que tenga y pudiera tener en los bienes dejados por la finada P. L."; y toda tentativa de retirar dicha renuncia después de aprobada por el Juzgado es improcedente. La actuación judicial no es tela de Penélope que se teje y se desteje, a gusto de una de las partes.

JUICIO ORIGINAL en el Tribunal Supremo. Avocación con Interdicto Prohibitorio Preliminar.

Los hechos aparecen relacionados en la decisión del Tribunal.

D. Mariano A. Aguilar en representación de la recurrente.

El recurrido Juez Dizon en su propia representación.

D. Agustín M. Tolentino en representación de los otros recurridos.

PABLO, M.:

En la actuación especial No. 70686, titulada Intestado de la Finada Pilar Leyba y Cobarrubias, iniciada el julio 5, 1945, la solicitante Magdalena Cobarrubias presentó en la misma fecha una moción urgente, alegando que la difunta Pilar Leyba tenía depositadas sus alhajas que valen ₱4,500 en un apartado de seguridad del Banco de las Islas Filipinas; que dicho banco notificó a todos los interesados que retirasen el contenido de su apartado dentro del más breve tiempo posible, por lo que ella pidió ser nombrada administradora especial, y que fuera autorizada para retirar dichas alhajas del banco. En su solicitud Magdalena Cobarrubias hizo constar que ella era la única heredera forzosa de la finada Pilar Leyba. Aceptando como buenas estas alegaciones, el Honorable Juez Dizon en la misma fecha, julio 5, 1945, nombró a Magdalena Cobarrubias administradora especial bajo fianza de ₱200.

En julio 6, 1945, autorizó a la administradora especial a retirar del apartado de seguridad del banco las alhajas depositadas con instrucciones de dar cuenta al Juzgado dentro del término de cuarenta y ocho horas del resultado de su gestión.

En julio 13, la solicitante pidió al Juzgado que ordene "la suspensión de la publicación y el aplazamiento de la vista de la solicitud de [redacted], señalada para el 28 de julio de 1945, hasta nueva orden," porque ella "desea tener tiempo para arreglar con sus coherederos una partición extrajudicial."

En julio 17, 1945, el Juzgado al enterarse de los verdaderos hechos que son contrarios a las alegaciones hechas por la solicitante en su solicitud y en su moción urgente, dictó una orden revocando la de julio 5, 1945, nombrando a Magdalena Cobarrubias administradora especial, y la de

julio 6, 1945, autorizando a ella a retirar del banco las alhajas.

En julio 19, la solicitante presentó un escrito alegando que ya que el Juzgado "ha dejado sin efecto su auto de fecha 5 de dicho mes y año," pidió que el Juzgado ordene la cancelación de fianza de ₡200 y se ordene su devolución al abogado de la solicitante.

En julio 20, la solicitante presentó una solicitud enmendada—y debidamente jurada—en la cual alegaba "Que las únicas herederas de la finada Pilar Leyba y Cobarrubias, son sus hijas llamadas Rosario y Carmencita" y hacía "constar que renuncia a favor de estas dos menores Rosario y Carmen, todo derecho, interés y participación que tenga o pudiera tener en los bienes dejados por la finada Pilar Leyba."

En la vista celebrada el julio 28, 1945, el abogado de la solicitante pidió que este expediente de intestado No. 70686 se convierta en expediente de tutela de las menores Rosario y Carmen, añadiendo que

"esta petición se funda en que las referidas menores Rosario y Carmen son las dueñas absolutas de todas las propiedades descritas en la solicitud de este expediente" * * * "y pido que sea nombrado tutor de dichas menores" * * * (t. n. t., p. 3.)

Obrando de acuerdo con las pruebas presentadas en la vista ya citada, con la declaración de la solicitante en su moción enmendada y con la petición del abogado de la solicitante, el Juez Dizon dictó su orden de agosto 28, 1945, declarando que todas las propiedades mencionadas en la solicitud de julio 5, 1945 tal como fué enmendada, pertenecen a las menores Rosario y Carmen, de nueve y seis años de edad; que la parcela de terreno con una casa de materiales fuertes ha sido ya trasferida a nombre de dichas menores; que los muebles correspondientes a las partidas 2, 3 y 7 han sido ya vendidos por la difunta; que no hay otra propiedad que debía ser administrada en nombre de dicha difunta: y para proteger los intereses de dichas menores, ordenó, de acuerdo con la petición del abogado de la solicitante, que el expediente de abintestato se convierta en un expediente de tutela.

En agosto 29, la solicitante pidió la reconsideración de dicha orden, y después de varias transferencias pedidas por las partes, el Juez Ocampo en enero 2, 1946, la denegó.

Acude ante este Tribunal Magdalena Cobarrubias con una solicitud de *certiorari* contra los Jueces Dizon y Ocampo y la Philippine Trust Company, pidiendo la anulación de las órdenes de julio 17, 1945, agosto 28, 1945 y enero 2, 1946.

En cuanto a la orden del 17 de julio, revocando el nombramiento de la recurrente como administradora especial y revocando la orden que autoriza a ella a retirar del banco las alhajas depositadas, el Juzgado no abusó de su discreción, ni obró fuera de su jurisdicción. El poder del Juzgado de Primera Instancia de dejar sin efecto el nombramiento de un administrador cuando se haya obtenido el nombramiento mediante representaciones falsas o incorrectas, es indiscutible. Cuando el Juzgado nombró a la recurrente administradora especial con autorización para retirar del banco alhajas valuadas en ₡4,500 bajo una fianza de ₡200 tuvo en cuenta su alegación esencial de que "era la única heredera forzosa de la finada." No había peligro de posible malversación; podía aun nombrarla sin fianza. Pero al recibir informe de que esta alegación era inexacta, informe confirmado por la moción de la misma solicitante que pedía la "suspensión de la publicación y aplazamiento de la vista" porque deseaba "tener tiempo para arreglar con sus co-herederos una partición extrajudicial," el Juzgado tenía sobrados motivos para revocar dichas órdenes aun sin notificación a la administradora; el intestado no se incoa a beneficio de los administradores sino de los herederos. El Juzgado debía obrar inmediatamente y no poner en peligro, con su indiferencia, las alhajas. Si dejaba pasar algunas horas, sin tomar acción drástica, podían ser retiradas las alhajas valuadas en ₡4,500 por la administradora especial que estaba solamente afianzada en ₡200 en perjuicio de los intereses de las menores. El celo demostrado por el Juzgado estaba bien fundado. El cargo de administradora especial es uno de confianza. Tan pronto como perdió su confianza en la integridad de la solicitante, el Juzgado estaba plenamente justificado en revocar su nombramiento de administradora especial y anular su autorización para retirar las alhajas del banco.

Cuando el Juzgado declaró en su orden de agosto 28, 1945, que todas las propiedades mencionadas en la solicitud de julio 5, 1945 tal como fué enmendada, pertenecen a las menores Rosario y Carmen, tuvo en cuenta todas las declaraciones hechas por la recurrente bajo juramento en su moción de julio 20, 1945 y aprobó "la renuncia a favor de ellas por Magdalena Cobarrubias de todo su derecho, interés y participación que tenga y pudiera tener en los bienes dejados por la finada Pilar Leyba"; y toda tentativa de retirar dicha renuncia después de aprobada por el Juzgado es improcedente. La actuación judicial no es tela de Penélope que se teje y se desteje, a gusto de una de las partes. La declaración judicial de herederos que pide la recurrente en su informe suplementario ya no tiene razón de ser. Si la solicitante "ha renunciado ya a favor de las menores

Rosario y Carmen todo su derecho, interés y participación que tenga y pudiera tener en los bienes dejados por la finada Pilar Leyba," y esa renuncia ha sido aprobada por el Juzgado en su orden de agosto 28, 1945 ¿qué interés o participación aun lo queda a ella? Absolutamente nada. Es inútil, pues, toda discusión sobre quiénes son los herederos de la finada Leyba. Las declaraciones de la recurrente que ella "era la única heredera forzosa" (solicitud original); que "quería arreglar con sus co-herederos una partición extra-judicial" (Moción de julio 13, 1945); "que las únicas herederas de la finada Pilar Leyba son sus hijas llamadas Rosario y Carmencita" y "que renuncia a favor de estas dos menores todo derecho, interés y participación que tenga o pudiera tener en los bienes dejados por la finada Pilar Leyba." (Moción de julio 20, 1945), le ponen en una situación insostenible.

Se deniega la petición con las costas contra la recurrente.

Moran, Pres., Ozaeta, Parás, Jaranilla, Feria, De Joya, Perfecto, Hilado, Bengzon, y Briones, MM., están conformes.

Se deniega la solicitud.

[No. L-43. February 27, 1946]

PILAR DOMINGO VDA. DE BUHAY, plaintiff and appellee, *vs.*
CARMEN COBARRUBIAS, defendant and appellant

1. LEASE; DURATION IN THE ABSENCE OF AGREEMENT; TERMINATION WITHOUT SPECIAL NOTICE—Under article 1581 of the Civil Code, in the absence of an agreement as to the duration of the lease, it is understood as being from month to month when the rent is on a monthly basis, and "the lease shall terminate without necessity of a special notice, upon the expiration of the term."
2. ID.; ID.; ID.; CIRCUMSTANCES OF EMERGENCY NOT A DEFENSE.—The contention that the trial court should have held that under the circumstances of emergency and as a matter of equity, the defendant and appellant cannot be deprived of the possession of the leased premises, was rejected in *Philippine Sugar Estates Development Co., Ltd., vs. Prudencio* (G. R. No. L-75, 42 Off. Gaz., 2097).

APPEAL from a judgment of the Court of First Instance of Manila. Diaz, J.

The facts are stated in the opinion of the court.

Cardenas & Casal for appellant.

Gregorio N. Garcia for appellee.

OZAETA, J.:

This is an appeal from a judgment of the Court of First Instance of Manila ordering the defendant to vacate the upper part of the house located at 563 Legarda, Manila,

and to pay to the plaintiff the rents, from February 1945 until the premises are vacated, at the rate of ₱27.50 a month, and the costs.

For some years previous to 1945 the defendant had been occupying the premises in question, paying a monthly rent therefor to the plaintiff and her predecessors in interest. On February 8, 1945, the plaintiff, having lost her residence on Soler Street, notified the defendant to vacate the said premises. The defendant not only failed and refused to do so but likewise failed to pay the rents for the months of February and March 1945, for which reasons the plaintiff commenced in the Municipal Court of Manila this action, which in the course of time was appealed to the Court of First Instance, with the result already indicated above.

In her first assignment of error the appellant invokes article 1566 of the Civil Code, which reads as follows:

"ART. 1566. If, on the expiration of the contract, the lessee, with the acquiescence of the lessor, continues for fifteen days to enjoy the thing leased, it shall be deemed that there has been an implied renewal for the time mentioned in articles 1577 and 1581, unless notice to vacate has previously been given."

Appellant's argument is that she having been permitted by the appellee to occupy the premises in question during the months of February and March, there was an implied renewal of the contract under the article above quoted. This contention is clearly untenable. Under article 1581 of the Civil Code, in the absence of an agreement as to the duration of the lease it is understood as being from month to month when the rent is on a monthly basis, and "the lease shall terminate without necessity of a special notice, upon the expiration of the term." (*Estrella vs. Sangalang*, G. R. No. L-65, 42 Off. Gaz., 2095). Moreover, the trial court found, and we find no basis in the record upon which to reverse its finding, that on February 8 the plaintiff, "braving the perils incident to the war," went to the defendant and told her to pay the rent for that month and vacate the premises. There is therefore the additional consideration in this case that the plaintiff had given the defendant notice to vacate before commencing the action. Furthermore, the defendant admits having failed to pay the rents corresponding to February and March 1945. Hence plaintiff's right to eject the defendant is indisputable.

In her second assignment of error the defendant and appellant contends that the trial court should have held that under the circumstances of emergency and as a matter of equity she cannot be deprived of the possession of the

leased premises. A similar contention was advanced by the appellant and rejected by this court in the case of Philippine Sugar Estates Development Co., Ltd., vs. Prudencio (G. R. No. L—75, 42 Off. Gaz., 2097). In the instant case the defendant has been unlawfully withholding from the plaintiff the possession of the premises in question for more than a year; and the plaintiff pleads before us that she was compelled to bring the present action not so much to collect the rent as to acquire a place where she and her nine children could live, “they being victims of the general conflagration occasioned by the Japanese armed forces upon the liberation of Manila,” and that “the said appellee is a widow who, but for the accommodation extended to her by her sister-in-law, with her nine children would be sleeping in the streets.”

The judgment is affirmed, with costs.

De Joya, Perfecto, Hilado, and Bengzon, JJ., concur.

Judgment affirmed.

[No. L-73. Febrero 27, 1946]

FRANCISCO MAÑALAC, demandante y apelado, *contra* GREGORIA C. GARCÍA, demandada y apelante

ARRENDAMIENTO; CONVENIO SOBRE EL LUGAR DEL PAGO DE LOS ALQUILERES; EL DEUDOR NO INCURRE EN MORA SI EL ACREEDOR NO TRATA DE COBRAR SEGÚN EL CONVENIO.—Habiéndose convenido que el pago de los alquileres se haría en el domicilio del deudor, éste tenía derecho a esperar que le presentasen el recibo, no incurriendo en mora por el tiempo que el acreedor dejase transcurrir sin realizar el cobro.

APELACIÓN *contra* una sentencia del Juzgado de Primera Instancia de Manila. Díaz, J.

Los hechos aparecen relacionados en la decisión del Tribunal.

D. Alberto Flores en representación de la apelante.

D. Angel M. Tesoro en representación del apelado.

BRIONES, M.:

Allá por 1943, durante la invasión japonesa, la demandada tomó en arrendamiento, de mes en mes, los altos de una casa del actor sita en la calle de Asturias número 449, ciudad de Manila, estipulándose verbalmente entre las partes un alquiler mensual de ₱20 pagadero en los primeros 5 días después del 20 de cada mes. Hasta que se suscitó el presente litigio no hubo entre demandante y demandada ninguna desavenencia con respecto al cumplimiento de los términos del arrendamiento.

En mayo del año pasado, 1945, el demandante entabló la acción de desahucio que nos ocupa alegando que la demandada, con infracción de las condiciones del contrato, dejó de pagar los alquileres desde el mes de febrero de dicho año. La demandada niega la imputación y se defiende diciendo que ella siempre había pagado religiosamente los alquileres convenidos; que si bien lo verbalmente pactado era que el demandante o su encargada cobraría el alquiler dentro de los cinco días siguientes al veinte de cada mes, a veces se anticipaba la presentación del recibo, o se efectuaba el cobro un poco después de dichos cinco días, o bien se acumulaban varios recibos no por mora de la demandada sino sencillamente porque el demandante o su encargada dejaba transcurrir el tiempo sin ir a presentar el recibo, pero que cuando ésto se hacía nunca fallaba el pago; que ni el demandante ni su encargada se presentó a cobrar durante el mes de febrero, y que cuando a fines de marzo ella ofreció pagar al demandante los alquileres devengados, éste se negó a recibirlos diciendo que ella debía desalojar la casa y recibiría una carta de requerimiento a dicho efecto; y que después de recibir dicha carta, ya no volvió a ver ni al demandante ni a su encargada hasta que se presentó la demanda de autos.

Concluida la vista el Juzgado de Primera Instancia de Manila dictó sentencia a tenor de la demanda por el fundamento de que "la demandada admitió no haber pagado los alquileres correspondientes a los meses de febrero y marzo según los términos del contrato, y solamente hizo la oferta de pagar la cantidad adeudada cuando el demandante se apersonó en su vivienda allá hacia fines de marzo."

La sentencia de desahucio se basa, pues, en el supuesto de que la demandada incurrió en mora o falta en el pago del precio convenido por el mero hecho de no haber satisfecho los alquileres de febrero y marzo de 1945. (Código Civil, artículo 1569; Reglamento de los Tribunales, regla 72, artículo 2).

El pronunciamiento es a todas luces erróneo. No hubo mora el mes de febrero, primero, porque ninguno se presentó en el domicilio de la demandada en dicho mes para cobrar como era el convenio o, por lo menos, la costumbre entre las partes; segundo, porque es de conocimiento histórico y judicial que la espantosa y descomunal batalla por la liberación de Manila se desencadenó durante todo dicho mes, causando una confusión y un caos tremendos en la vida ciudadana en esta urbe y en los suburbios, sobre todo en la cuestión de alojamiento, debido a la destrucción y a los incendios que redujeron a escombros y cenizas una parte considerable de las edificaciones y del caserío. De

hecho, el mes de febrero quedó expresamente incluído en el decreto de moratoria expedido por el Ejecutivo.

Tampoco hubo mora el mes de marzo porque el mismo Tribunal *a quo* establece en su sentencia el hecho de que la demandada ofreció pagar "en la última parte de marzo". En esta frase cabe perfectamente la posibilidad de que la oferta se haya efectuado *dentro de los primeros cinco días siguientes al veinte de marzo*, pero aun concediendo que se haya rebasado un poco dicho período tampoco cabe concluir que hubo mora en vista de las circunstancias extraordinariamente anormales que imperaban entonces, y, sobre todo, en vista de que, según se trasluce en autos, el demandante o su encargada tenía la costumbre de efectuar la cobranza con bastante irregularidad. Habiéndose convenido que el pago de los alquileres se haría en el domicilio del deudor, éste tenía derecho a esperar que le presentasen el recibo, no incurriendo en mora por el tiempo que el acreedor dejase transcurrir sin realizar el cobro. (Código Civil, artículo 1171).

En méritos de lo expuesto, se revoca la sentencia apelada en cuanto por ella se ordena el desahucio de la demandada y se confirma en cuanto por ella se ordena el pago de los alquileres devengados al demandante, teniendo éste derecho a percibir todos los que se hayan ido depositando judicialmente durante la pendencia del asunto. Con costas a cargo del apelado. Así se ordena.

Moran, Pres., Parás, Jaranilla, Feria, y Pablo, MM., están conformes.

Se revoca la sentencia.

[No. L-118. February 28, 1946]

THE PEOPLE OF THE PHILIPPINES, plaintiff and appellee, *vs.*
ALEX JUREIDINI, defendant and appellant

CRIMINAL LAW; THEFT; EVIDENCE; MINOR INCONSISTENCIES IN TESTIMONY OF WITNESSES.—The alleged inconsistencies in the testimony of the witnesses are not serious in nature. Moreover, the testimony of every person should not be expected to be identical and coinciding with each other. It is enough that the principal points covered by their testimonies are established although they do not dovetail in all details—which would even prove well-rehearsed and studied declarations.

APPEAL from a judgment of the Court of First Instance of Cebu. Duterte, J.

The facts are stated in the opinion of the court.

Vicente S. del Rosario for appellant.

First Assistant Solicitor-General Reyes and *Solicitor Palma* for appellee.

JARANILLA, J.:

Alex Jureidini was prosecuted for and convicted of theft in the Municipal Court of Cebu and on appeal to the Court of First Instance was found guilty of the same crime and was sentenced to one month and one day of imprisonment. From this judgment he appealed to this court.

The prosecution tried to establish the following facts:

In the morning of April 16, 1945, Private Ned Games, a guard of the warehouse of the quartermaster depot, APO 716, at pier 2, Cebu City, saw on the carriage of a parked bicycle a bag, Exhibit A, containing the articles Exhibits A-1 to A-7, belonging to the United States Army. Thereupon Private Games reported what he had seen to Sergeant Merle G. Brown, calling his attention particularly to the bag Exhibit A which contained cigarettes. Private Games was instructed by Sergeant Brown to take the bicycle and its owner to the office as soon as the latter showed up. Moments later the accused appeared, approached the bicycle and, after tying his shoes over the bag Exhibit A which was placed on the carrier of the bicycle, tried to leave the premises. Upon being asked by Private Games whether he was the owner of the bicycle, the appellant answered in the affirmative; whereupon, following the order of his superior, Private Games took the appellant together with the bicycle and the Exhibits referred to above to the quartermaster. Here the appellant admitted having placed the goods inside the bag Exhibit A but without any intention of stealing them. Appellant was at that time an employee of the said warehouse of the quartermaster depot of the United States Army in Cebu.

Denying his guilt, the appellant adduced the following evidence: That he was the only son of Isidro Jureidini and one Eulalia, wealthy merchants of Cebu before the outbreak of the war; that he studied in the Sambag Grammar School of the City of Cebu, attended high school in the Silliman Institute and received his college education in the Cebu Junior College; that he had never before been accused of any crime in any court of justice and that he is a young man of good moral character; that at the time he was prosecuted for theft he was living with his mother in such ease and comfort that he did not have to work for a living but that being bored having nothing to do he worked in the aforesaid quartermaster of the United States Army as foreman; that while he was working there so many robberies and thefts had taken place that the authorities of the quartermaster took all precautionary measures to prevent further commissions of such crimes by, among others, posting guards at the entrance and exit of the premises, frisking every employee going out and placing

a notice in the premises warning that any person caught in the act of stealing goods from the quartermaster would be shot; that in the afternoon of April 14, right after he had begun working in the warehouse, he stumbled on a box, as a result of which he injured his feet, but despite the accident he continued working; that early in the evening of said date he requested the watchman, Venancio Antonio, to speed up the work in the warehouse which appeared to the former to be going on very slowly, but that Venancio refused to cooperate; that he then told Venancio that he was only wasting the money of the Americans, which provoked a quarrel between the two; that in the morning of April 16 the appellant entered the warehouse and waited there for about half an hour to get his rations, but finding that there was nobody to attend him he went back to his bicycle intending to go home, as his office hours had already ended; that on that occasion he noticed that his bicycle had been removed from the place where he had left it and found on its carrier a small box with lettering "PRUNES" and a small tin can without any label; that a guard approached him and told him to go to the office; that upon arriving there he was shown by Sergeant Brown a big bag and was told that it was found on the carrier of his bicycle; that a Corporal Lovensky began typing something which was probably an affidavit to be subscribed against him; that about an hour later Lieutenant James, head of the employees in the quartermaster, arrived and told him that he and several others had committed the crimes of robbery and theft in the premises of the quartermaster; that the bag Exhibit A was placed by Venancio Antonio on the bicycle of the accused after filling it up with some scattered chewing gums, chocolate bars and other things that were found by him in the premises of the quartermaster; that Venancio Antonio, not knowing what had become of the appellant because the former left the quartermaster for not having been paid his salary, discovered when he visited the accused that the latter was being prosecuted for theft due to that bag which he had placed on the bicycle of the accused, and so willingly testified before the court on this matter.

Appellant's brief raises six errors supposedly committed by the trial court which in our opinion may be reduced to the following proposition: Whether or not the appellant was proved guilty of the crime charged beyond reasonable doubt.

In the course of the presentation of the evidence for the defense, Venancio Antonio was introduced as a witness, who strongly corroborated appellant's testimony. He declared that he had a quarrel or fight with the appellant in

the evening of April 15, 1945, and that as a result thereof he wanted to get even with him and decided to put the contents of the bag Exhibit A and the bag itself on the carrier of appellant's bicycle, unsuspecting that appellant would be seriously affected by the deed and would result in his prosecution for theft. This act of Venancio Antonio was probably conceived by him due to the prevailing condition during that time in the warehouse in question wherein, in view of the numerous robberies and thefts being committed, the people or employees who were carrying any kind of bundle were examined and searched at the exit by the guard purposely posted there to remedy the situation. This practice of the guard being known to the accused (pp. 50, 51, 79, t. s. n.), it was most natural for him not to take any package or bundle containing stolen goods from the quartermaster warehouse, because it was logical for him to presume that he would be searched at the gate when he went out, similarly to other people or employees who were going out of the premises. If he were really aware of the fact that he had committed said crime of theft and that he was carrying with him the *corpus delicti* in the bag Exhibit A on the carrier of his bicycle, he would not have attempted to go through that gate with that incriminating evidence against him, knowing as he did that every person was searched as he went out. The appellant, it stands to reason, would not have exposed himself to becoming a sure victim of the stolen goods that he had in his possession. Under the circumstances it is not hard to believe that, there having been an ill feeling between the appellant and Venancio Antonio, it was very probable that the latter might have planted it, as in fact he so testified before the trial court and corroborated the accused on this point, which testimony was not in any way rebutted by the prosecution although there were other persons present cited by Venancio Antonio (pp. 35, 36, t. s. n.).

It is alleged that the testimony of Venancio Antonio and that of the appellant suffer from some inconsistencies which render the testimony of the former unbelievable and that said Venancio did not appear on the payroll of the employees of the warehouse in question. The alleged inconsistencies are not serious in nature. Moreover we should not expect the testimony of every person to be identical and coinciding with each other. It is enough that the principal points covered by their testimonies are established although they do not dovetail in all the details—which would even prove well-rehearsed and studied declarations. The fact that many employees were not noted on the payroll was also established in this case. And even the name

of the appellant himself was only written in ink in one of the payrolls, which goes to show that many of the employees there were not regularly carried on the payroll.

Another circumstance which to our mind strengthens the position of the appellant is that he was an intelligent person and a college student, and it seems reasonable to expect that he would not be so stupid as to commit the crime in the manner attributed to him by the prosecution.

One more significant circumstance that should not escape our attention is that one Yent testified that in the evening of April 16, as one of the guards of the warehouse, he actually saw the appellant take away surreptitiously the stolen goods and place them in the bag Exhibit A, and that he reported what he had seen to Sergeant Brown, another witness for the prosecution. But if what he testified was true, why is it that he was not presented as a witness for the prosecution since the beginning in the Municipal Court where this case was originally heard? And why is it that the trial judge, in his decision, did not even mention the name of this witness and the most pertinent facts declared by him in the trial? Was it because he believed that the accused was being "persecuted"?

Finally, when the appellant was told to go to the office by the guard, believing that he was to get his rations, he met there Corporal Lovensky and was shown by Sergeant Brown a big bag, bigger than that which was made an exhibit in this case, and was informed that it was found on the carrier of his bicycle. Corporal Lovensky then began typing something which was probably an affidavit to be subscribed by the accused. That affidavit which is supposed to be one of the strongest proofs against the accused does not appear to have been introduced in this case—which leads us to another significant circumstance: Was the purpose of preparing that affidavit to establish something that the accused committed such and such acts but that the accused repudiated the same, or was that affidavit prepared for the purpose of having it subscribed by the persons who were supposed to have been present on that occasion of the discovery of the *corpus delicti* but that the witnesses or individuals expected to testify thereon refused to "persecute" the appellant herein?

In view of all the foregoing, we are of the opinion that the guilt of the appellant has not been proved beyond peradventure of doubt. The judgment of conviction is accordingly reversed and the appellant acquitted, with costs *de oficio*. So ordered.

Moran, C. J., Paras, Feria, Pablo, and Briones, JJ., concur.

Judgment reversed; defendant acquitted.

[CA-No. 70. February 28, 1946]

THE COMMONWEALTH OF THE PHILIPPINES, plaintiff and appellant, *vs.* MIGUEL BATAC, defendant and appellant

1. EXPROPRIATION; APPRAISAL OF COMMISSIONERS; WHEN TO BE ADOPTED; CASE AT BAR.—The commissioners on appraisal appointed by the Court of First Instance, one of whom represented the plaintiff, another the defendant, and a third the court, submitted a unanimous report recommending that the defendant be paid ₱2,297.24 as the market value of the land. *Held*: The trial court correctly adopted the appraisal of the commissioners, not only because they made an ocular inspection of the land but because they had full opportunity to hear and weigh the testimony of witnesses, in conjunction with the documentary evidence; and their report finds substantial support in said evidence.
2. ID.; CONSEQUENTIAL DAMAGES; CASE AT BAR.—Under the facts stated in the opinion, the defendant was awarded consequential damages for real estate tax, for the destruction of an irrigation system and of standing rice crops, and for expenses incident to a new survey plan made necessary by the exclusion of the portion expropriated.

APPEAL from a judgment of the Court of First Instance of Pampanga.

The facts are stated in the opinion of the court.

Ignacio Lugtu for defendant and appellant.

First Assistant Solicitor-General Reyes and *Solicitor Alik-pala* for plaintiff and appellant.

PARAS, J.:

The plaintiff seeks to acquire, for public use, a certain piece of land situated in Masantol, Pampanga, containing an area of 9,988 square meters. The defendant Miguel Batac, owner of the land and now substituted in this case by his heirs in view of his death, has not challenged the plaintiff's right of condemnation, and the only issue raised by the parties concerns the just compensation. The commissioners on appraisal appointed by the Court of First Instance of Pampanga, one of whom represented the plaintiff, another the defendant, and a third the court, submitted a unanimous report recommending that the defendant be paid ₱2,297.24 as the market value of the land, and ₱793.89 as consequential damages. The Court of First Instance rendered judgment fixing the value of the land at ₱2,297.24, or at ₱0.23 per square meter, and disallowing the consequential damages recommended by the commissioners. Both the plaintiff and the defendant have appealed, the former claiming that the land should be appraised at only ₱1,000 per hectare, and the latter insisting on the damages found to be due in the commissioners' report.

Plaintiff's appeal is not tenable. The value specified by the trial court is merely the amount paid for the land by the defendant in 1922, and greatly lower than the price (₱0.37 per square meter) for which an adjoining parcel was sold at about the same time. Although they were not sufficiently coeval transactions, the same are influential factors in the determination of the market value, since there is absolutely no intimation that, on the date of the condemnation proceedings, the price of land in defendant's locality was lower than ₱0.23 per square meter. We are inclined to adopt the appraisal of the commissioners, not only because they made an ocular inspection of the land but because they had full opportunity to hear and weigh the testimony of witnesses, in conjunction with the documentary evidence; and their report finds substantial support in said evidence. This report is obviously more disinterested and acceptable than the appraisal of ₱0.10 per square meter made by the committee created pursuant to Executive Order No. 132, series of 1937, and relied upon by the plaintiff, inasmuch as the latter committee was wholly composed of public officials, not to mention the absence of a showing that, during its proceedings, the defendant had been given his "day in court." It is true that in 1927 the land was declared by the defendant for taxation purposes at about ₱0.05 per square meter, but the same cannot have a decisive bearing in its market value in 1940, for the reason that the land was in said declaration represented as No. 2 in productivity, class B in accessibility, and partly irrigated; whereas, according to the finding of the commissioners on appraisal, the property is first-class irrigated riceland, with two heavy and abundant harvests annually, accessible to any water craft, and free from floods. Moreover, in compliance with Commonwealth Act No. 530, the defendant had declared the land in 1940 at its purchase price, or ₱0.23 per square meter.

Upon the other hand, we hold that the defendant is entitled to the following consequential damages:

(a) *Two pesos and twenty-five centavos.*—It appearing that the defendant had paid in full the 1940-tax on the land which included the condemned portion, which is approximately one-half of the entire area; that the plaintiff took possession in July, 1940; and that the amount paid was ₱8.93, the defendant ought to be reimbursed in a sum equivalent to one half of the tax corresponding to the second semester of 1940, of ₱2.26. This item is conceded by the plaintiff in its brief as appellee.

(b) *Six hundred pesos.*—There is uncontradicted evidence to the effect that the irrigation system of the remaining portion of the defendant's land had been destroyed or otherwise rendered worthless as a result of the expropria-

tion of the other portion and that the construction of a new system will cost ₱600, according to the very estimate of Celedonio Espiritu, an experienced employee in the District Engineer's Office who was, at the behest of the provincial fiscal of Pampanga, appointed by the trial court in representation of the plaintiff. Said amount, unanimously recommended by the commissioners on appraisal, is an expense brought about by the condemnation proceedings for which the defendant should be indemnified.

(c) *One hundred seventy-two pesos and twenty-five centavos.*—There is also uncontradicted evidence that the defendant was prevented from harvesting rice crops standing on the condemned land which were destroyed to give way to the purpose for which the land was expropriated, as well as rice crops standing on the remaining western portion which were destroyed by rain inundation caused by the very high dykes constructed by the plaintiff. Said lost crops would have netted the defendant ₱172.25, erroneously reported by the commissioners as ₱165.63, upon the computation that the minimum total yield would have been sixty-five cavans and the prevailing price of palay was ₱2.65 per cavan.

(d) *Twenty-six pesos.*—This is the amount unquestionably paid by the defendant for the original survey plan of the defendant's entire land which had become useless by the exclusion of the expropriated portion. There is consequent necessity for a new survey plan.

Wherefore, with the modification that the plaintiff is ordered to pay the defendant the sum of ₱800.51 as consequential damages, the appealed judgment is in other respects affirmed. So ordered, without costs.

Moran, C. J., Jaranilla, Feria, Pablo, and Briones, JJ., concur.

Judgment modified.

[No. L-144. February 28, 1946]

ALEJANDRO RODULFA, petitioner, *vs.* FRANCISCO ANFONSO, Judge of First Instance of Pangasinan, GUILLERMO SORIANO, Provincial Sheriff of Pangasinan, and PABLO DEL MORAL, respondents.

1. PLEADING AND PRACTICE; PARTY BOUND BY ALLEGATIONS OF HIS PLEADINGS.—The petitioner is strictly bound by the allegations made by him in his pleadings, and he cannot be permitted to contradict and deny or ignore said facts, by means of his petition for reconsideration and reply, alleging altogether different facts.
2. INJUNCTION; NOT REMEDY FOR TRANSFERRING POSSESSION OF LITIGATED PROPERTY.—Injunction, as a rule, will not be granted to take property out of the possession or control of one party and place it into that of another whose title has not clearly

been established by law. The rule that a court should not, by means of a preliminary injunction, transfer property in litigation from the possession of one party to another, is more particularly applicable where the legal title is in dispute and the party having possession asserts ownership in himself.

3. ID.; MAY BE AVAILED OF BY OWNER IN POSSESSION TO PREVENT TRESSPASS.—Where a person other than the owner from time to time unlawfully enters upon land and commits depredations thereon, as by cutting wood or bamboo, the true owner, having possession, can maintain an action to quiet title and enjoin the intruder from the repetition of such trespass in the future. The circumstance that the trespasser in such case also pretends to ownership of the same land is immaterial.
4. ID.; PURPOSE OF PRELIMINARY INJUNCTION.—The sole object of a preliminary injunction is to preserve the *status quo* until the merits can be heard. The *status quo* is the last actual peaceable uncontested *status* which preceded the pending controversy.
5. ID.; PRELIMINARY INJUNCTION; EXERCISE OF SOUND DISCRETION OF LOWER COURT NOT TO BE INTERFERED WITH.—In cases involving the issuance of a writ of preliminary injunction, the exercise of sound judicial discretion by the lower court will not generally be interfered with.

ORIGINAL ACTION in the Supreme Court. *Certiorari*.

The facts are stated in the opinion of the court.

Fernandez, Unson & Fernandez for petitioner.

Primicias, Abad & Castillo for respondents.

DE JOYA, J.:

This is an original action for the issuance of a writ of certiorari instituted in this court.

The petitioner Alejandro Rodulfa alleges, in his petition under oath, that in civil case No. 8930 of the Court of First Instance of Pangasinan, instituted by him against the respondent Pablo del Moral, on September 19, 1945, he has demanded the return and reconveyance of fifteen parcels of land, with an aggregate area of about thirty-one hectares; that on October 26, 1945, before answering said complaint, Pablo del Moral, defendant therein, and now one of the respondents in this case, filed a motion praying for the issuance of a writ of preliminary injunction against the plaintiff therein, and now petitioner in this case, and the latter's agents, attorneys, representatives, and other persons acting on his behalf, to desist and refrain from molesting, retarding, or otherwise disturbing the possession of respondent Pablo del Moral of said fifteen parcels of land, until further orders from the court; that on November 7, 1945, without any answer having been filed to the said complaint, the respondent Judge, Francisco Alfonso, acting upon said motion of respondent Pablo del Moral, issued, over and above the objection of herein petitioner, an order providing that, upon the previous filing of a bond by respondent Pablo del Moral, in the sum of ₱5,000, to be ap-

proved by the court, said writ of preliminary injunction would be issued; that on November 8, 1945, respondent Pablo del Moral filed the bond of ₱5,000, pursuant to said order, and on the same day, the respondent Judge approved said bond, and the respondent Judge forthwith issued said writ of preliminary injunction; that on the same day, November 8, 1945, said writ of preliminary injunction was delivered to respondent Guillermo Soriano, provincial sheriff of Pangasinan, for service; but up to the time of the filing of the petition in this case, it had not been served upon the petitioner; that on November 9, 1945, the petitioner received copy of said order of the respondent Judge, dated November 7, 1945, and on the same day, said petitioner filed a motion for reconsideration of the said order, praying that it be set aside and that another be issued denying the motion of respondent Pablo del Moral for the issuance of a writ of preliminary injunction; that in his motion for reconsideration, the petitioner alleged, under oath, that for many years previous to the filing of the complaint in said civil case No. 8930, and up to the present time, he has always been in the material possession of the parcels of land in question, and working the same; but on November 14, 1945, said motion for reconsideration was denied by the respondent Judge, and copy of the order was received by herein petitioner on November 15, 1945; and herein petitioner further alleges that said order dated November 7, 1945, authorizing the issuance of a writ of preliminary injunction, upon the filing of said bond in the sum of ₱5,000, and said order of November 14, 1945, denying petitioner's motion for reconsideration, are both illegal and have been issued without or in excess of the respondent Judge's jurisdiction and with grave abuse of discretion; and are probably not in accord with law. Petitioner, therefore, asks that said two (2) orders be declared null and void, as well as the writ of preliminary injunction issued in said case, and that in the meanwhile, an order of preliminary injunction be issued by this court directing respondents, Judge Francisco Alfonso, and Guillermo Soriano, as provincial sheriff of Pangasinan, to desist and refrain, until further orders, from enforcing and carrying out said orders and writ of preliminary injunction.

On December 18, 1945, the three respondents filed their answer to the petition in this case, and substantially admitted the allegations contained in the first ten (10) paragraphs thereof, denying, however, the allegations contained in paragraphs 11 and 12 of the petition, as they are mere conclusions of law.

Respondent Pablo del Moral further alleges that petitioner is now estopped from questioning the legality of the bond filed in this case, as said petitioner had filed a motion

requesting that he be permitted to put up a counter bond in the same amount, which motion was denied by the respondent Judge; that the petitioner himself has admitted that the fifteen parcels of land in question had been registered under the Torrens System in the name of the respondent Pablo del Moral, and that the latter has been in possession thereof, for, at least, 20 years, although petitioner in his verified motion for reconsideration, stated, contrary to his express allegations in the original petition filed in this case, as well as in the complaint filed by him in said civil case No. 8930 of the Court of First Instance of Pangasinan, that he has been in possession of the lands in question; that after the filing of the petition in this case, petitioner and his agents have entered the lands in question, on account of which respondent Pablo del Moral filed a motion for contempt; and that out of delicacy, the respondent Judge, on December 10, 1945, issued an order suspending the proceedings, after said respondent Judge had been served with a copy of the petition filed in this case. Respondent Pablo del Moral further alleges that, by the filing of the said bond in the amount of ₱5,000, the rights and interests of the petitioner are amply protected and that the respondent Judge had a perfect right to issue a writ of preliminary injunction in said civil case No. 8930, at the instance of the defendant, as the plaintiff therein was himself the wrongdoer.

On December 20, 1945, petitioner filed a reply to respondent's answer, claiming that he has not been under estoppel by reason of his offer to file a counter bond; that the issuance of a writ of preliminary injunction by the respondent Judge in this case was an abuse of sound judicial discretion; and that petitioner herein, as plaintiff in said civil case No. 8930, has not admitted that the defendant therein, now respondent Pablo del Moral in this case, has been in possession of the lands in question; and that as a matter of fact herein petitioner has taken possession of said lands, as the period of 20 years, for their return and reconveyance, has already elapsed.

In his complaint in said civil case No. 8930, herein petitioner claims to have conveyed, since 1924, by means of fictitious documents, to the respondent the fifteen parcels of land in question and authorized him to register the said lands in respondent's name, to enable him to raise funds with which to pay an ₱8,000 indebtedness of the petitioner, subject to the condition that the respondent would return and reconvey said lands to the petitioner after 20 years, free from all liens and encumbrances. On the other hand, in his verified answer filed in said civil case, in addition to his specific denials, respondent claims to have acquired since 1924, by purchase, some of the lands in question from

said petitioner, and the rest from other parties, in an absolute manner, in good faith and for good and valuable consideration.

There are certain facts, which, according to the record in this case, including the pleadings in said civil case No. 8930, cannot be successfully disputed, to wit, that the fifteen parcels of land in question had been registered in the name of the respondent Pablo del Moral, under the Torrens System; that the respondent has been in possession of said lands for more than 20 years; that after the filing of the complaint in said civil case No. 8930, the plaintiff therein, now petitioner in this case, by means of threats and intimidation, attempted to take possession of all or some of said lands, without waiting for the decision of the court in said civil case No. 8930, instituted by him against herein respondent Pablo del Moral, for the return of possession and reconveyance of said lands; and that there is now a dispute as to the title or ownership of said fifteen parcels of land, between the plaintiff in said civil case No. 8930, now petitioner in this case, on the one hand, and the defendant in said civil case, now respondent Pablo del Moral in the instant case, on the other.

In the midst of economic hardships and disillusionment, after a long and a cruel war, the great masses of the people have still retained the consolation of religious hope, but a considerable portion of the different classes have lost their faith and look out upon this ruined world and harassed humanity, without any alleviating vision of that higher and vaster life in whose final justice and beauty those ugly ills would disappear. Humanitarian sentiments and moral values have reached their lowest ebb. And impelled by the socialist indictment of war and poverty and the biological stress placed upon the struggle for existence and the competition of life, on the one hand, and urged by cupidity perhaps, or by some new economic theory claimed to be the supreme achievement of an enlightened age, on the other, they have become emboldened and take the law into their own hands, occupying and taking possession of properties belonging to others, by the use of force, violence and intimidation, which cannot be justified under any code of law or code of morals in a much vaunted democracy. Such a situation cannot be tolerated. Governments and laws are established, for the protection not only of the persons of the inhabitants but also of their property. And no one can be permitted to enrich himself, with impunity, at the expense of another.

It is evident that the desperate acts and conduct of said plaintiff, now petitioner in this case, in attempting to occupy and take possession of all or some of the lands in question, in the last months of 1945, without waiting for

the final decision of the competent courts in said civil case No. 8930, were unlawful and illegal. During the pendency of said civil case No. 8930, he had absolutely no right to take the law into his own hands. Laws are made for the purpose of securing justice; and law cannot, and will not, tolerate any act of injustice.

As expressly admitted by the petitioner himself in the petition filed in this case, as well as in the complaint filed by him in said civil case No. 8930, respondent Pablo del Moral has been in possession of the lands in question for more than 20 years, and that the said lands had been registered in the name of said respondent. The petitioner is strictly bound by the allegations made by him in said pleadings, and he cannot now be permitted to contradict and deny or ignore said facts, by means of his said petition for reconsideration and reply, alleging altogether different facts (*Perkins vs. Perkins*, 57 Phil., 205).

Injunction, as a rule, will not be granted to take property out of the possession or control of one party and place it into that of another whose title has not clearly been established by law. (*Devesa vs. Arbes*, 13 Phil., 273; *Evangalista vs. Pedreños*, 27 Phil., 648; *Asombra vs. Dorado*, 36 Phil., 883; *Kabankalan Sugar Co. vs. Rubin*, 54 Phil., 645).

The rule that a court should not, by means of a preliminary injunction, transfer property in litigation from the possession of one party to another, is more particularly applicable where the legal title is in dispute and the party having possession asserts ownership in himself. (*Cordillo vs. Del Rosario*, 39 Phil., 829.)

But the fact that the petitioner might have been in sporadic possession of all or some of the lands in question, in the last months of 1945, having entered the same, by means of threats and intimidation, will not prevent the issuance of a writ of preliminary injunction in favor of herein respondent, as defendant in said civil case No. 8930, in whose name said lands had been registered under the Torrens System, and who has been in possession thereof, during the last 20 years, as said possession of the petitioner is completely and absolutely illegal.

Where a person other than the owner from time to time unlawfully enters upon land and commits depredations thereon, as by cutting wood or bamboo, the true owner, having possession, can maintain an action to quiet title and enjoin the intruder from the repetition of such trespass in the future. The circumstance that the trespasser in such case also pretends to ownership of the same land is immaterial. (*Rustia vs. Franco*, 41 Phil., 280.)

The sole object of a preliminary injunction is to preserve the *status quo* until the merits can be heard. The *status quo* is the last actual peaceable uncontested *status*

which preceded the pending controversy. (Fredericks vs. Huber, 180 Pa., 572; 37 Atl., 90.)

And this remedy may be invoked by the defendant, when the plaintiff himself is the wrongdoer, under the provisions of Rule 60, section 6, of the Rules of Court.

"Where plaintiff in an injunction suit is himself a wrong-doer in first invading the rights of defendant whom he seeks to enjoin, and should therefore be denied all equitable relief on that account, he cannot complain that, instead of dismissing his complaint, as demanded in defendant's answer, the court grants a further relief to defendant by enjoining plaintiff and thus adjudicating all the equities between the parties growing out of the facts alleged or litigated." (*Power vs. Athens*, 99 N. Y., 592; 2 NE., 609; 32 C. J., footnote).

The plaintiff's offer to file a counterbond was properly denied by the lower court, in the exercise of sound judicial discretion, for the preservation of the *status quo*; as the plaintiff's right and interest, if any, in the property in question are amply protected by the bond executed for the issuance of the writ of preliminary injunction.

The fact that no copy of said bond was given to the plaintiff in said civil case No. 8930, now petitioner herein, before it was submitted to the court for approval, cannot and will not invalidate said bond, as the failure to send copy of the bond to enable said plaintiff to object to the sufficiency was a mere formal defect, which might be waived, either expressly or impliedly, as by the filing in said civil case No. 8930 of a petition for permission to file a counterbond.

In cases involving the issuance of a writ of preliminary injunction, the exercise of sound judicial discretion by the lower court will not generally be interfered with; and the refusal of the trial court to permit the plaintiff in this case to file a counterbond cannot be considered as an abuse of sound judicial discretion, bearing in mind particularly the admission made by the plaintiff himself that sometime in 1945, or thereabouts, he occupied and took possession of all or some of the lands in question, without waiting for the final decision of the competent courts in said civil case No. 8930. It is a general principle in equity jurisprudence that "he who comes to equity must come with clean hands." (*North Negros Sugar Co. vs. Hidalgo*, 63 Phil., 664).

There having been no abuse of sound judicial discretion in the issuance of the writ of preliminary injunction by the respondent Judge, in connection with said orders dated November 7 and 14, 1945, respectively, the petition for certiorari filed in this case is hereby dismissed, with costs against the petitioner. So ordered.

Moran, C. J., Ozaeta, Paras, Jaranilla, Feria, Pablo, Perfecto, Hilado, Bengzon, and Briones, JJ., concur.

Petition dismissed.

RESOLUTIONS OF THE SUPREME COURT

REPUBLIC OF THE PHILIPPINES SUPREME COURT

EXCERPT FROM THE MINUTES OF OCTOBER 3, 1946

* * * * *

"The Court resolved that the First Division be composed of Chief Justice Manuel V. Moran, and Justices Felicisimo Feria, Gregorio Perfecto, Cesar Bengzon, Jose Hontiveros, and Pedro Tuason, and the Second Division of Justices Ricardo Paras, Guillermo Pablo, Emilio Y. Hilado, Manuel Briones, and Sabino Padilla."

* * * * *

REPUBLIC OF THE PHILIPPINES SUPREME COURT

EXCERPT FROM THE MINUTES OF OCTOBER 4, 1946

* * * * *

"Notwithstanding the resolution of September 4, 1946, the Clerk shall, when directed by order of this Court in specific cases, accept for filing the oath taken in accordance with the provisions of the resolution of August 9, 1946, by such lawyers as this Court shall find to be duly qualified members of the Bar."

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REPUBLIC OF THE PHILIPPINES SUPREME COURT

EXCERPT FROM THE MINUTES OF OCTOBER 14, 1946

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"The Court resolved that the time within which petitions for reconstitution of judicial records heretofore destroyed may be filed in all courts of the Philippines under Act Numbered 3110, is hereby extended up to June 30, 1947.

"Sections 29, 30 and 31 of Act No. 3110 are hereby made applicable to all courts, insofar as they are not inconsistent herewith.

"Provisions of Act No. 3110 as amended are hereby made applicable in the Court of Appeals."

* * * * *

DECISIONS OF THE PEOPLE'S COURT

REPÚBLICA DE FILIPINAS
TRIBUNAL DEL PUEBLO
MANILA

I DIVISIÓN

[CAUSA CRIMINAL No. 127. POR TRAICIÓN]

EL PUEBLO DE FILIPINAS, Querellante
CONTRA
JOSÉ DIZON, Acusado

DECISIÓN

José Dizon está acusado del delito de traición como se define y pena en el artículo 114 del Código Penal Revisado vigente.

Son ocho los cargos contra el acusado, que se alegan en la querella, como constitutivos del referido delito de traición, todos los cuales, fueron cometidos por el acusado durante el período de 8 de diciembre de 1941 a 2 de septiembre de 1945, dentro de la jurisdicción de este Tribunal.

El acusado se declaró no culpable al ser informado de la querella, y en el comienzo de la vista admitió haber sido siempre, de la fecha de su nacimiento hasta el presente, ciudadano filipino.

Los cargos contra el acusado constan específicamente en la querella de autos, pero en general o en síntesis pueden concretarse en haber el acusado actuado como espía o agente de las Fuerzas Imperiales Japonesas en Filipinas motivado por su propósito de adherirse a ellas y de darlas ayuda y *comfort*, y en haberse alistado como miembro de la sociedad conocida con el nombre de "Makapili," que a tenor de la querella es una organización militar instituida con propósitos y fines de colaborar con el enemigo.

Resulta establecido por los testimonios de Máxima Dedicatorio y Concha Pascual que a eso de las seis de la tarde del día 2 de agosto de 1943, en la calle Malosa del municipio de Santa Rosa, Laguna, el aquí acusado, acompañado de Arsenio Batitis, David Cusi, Ricardo Beato y un japonés llamado Meykawa, todos armados, el acusado portando de su parte un rifle, subieron a la casa de un tal Román Malapitan, a quien arrestaron y llevaron consigo en un *truck*. Desde entonces hasta ahora no se tiene, según revelan las pruebas, noticias sobre su paradero o de

si aun vive. Máxima Dedicatorio es esposa de Román Malapitan, y Concha Pascual era vecina de la casa donde tuvo lugar el arresto y fué testigo ocular al acto de la captura de Román Malapitan. Es claro, por el testimonio de estas dos testigos, que el aquí acusado tomó parte activa y directa en la aprehensión y arresto del mencionado Román Malapitan.

Resulta asimismo establecido que en 3 de noviembre de 1944 en el barrio de Balibago, municipio de Santa Rosa, Laguna, en ocasión en que un tal Isidoro de los Ángeles estaba en su molino de arroz fué arrestado por el acusado quien estaba armado de un revólver e iba acompañado de cuatro personas también armadas y que después de haber amarrado y maniatado a dicho Isidoro de los Ángeles le hicieron subir a una carretela y le llevaron a casa del mismo japonés Meykawa, sujeto muy mencionado en todos los procesos ante este mismo Tribunal de los asuntos procedentes de la provincia de Laguna. En dicha casa fué investigado Isidoro de los Ángeles. Desde entonces a esta parte no se ha sabido el paradero del citado Isidoro de los Ángeles. Motivo del arresto de éste era, según las pruebas, porque el acusado y sus compañeros sospechaban que Isidoro de los Ángeles era miembro de alguna guerrilla.

También está probado por los testimonios de Candelaria M. Santos, ahora viuda del finado Major Leopoldo F. Santos de la USAFFE, que el 16 de noviembre de 1944, Major Santos fué arrestado por los japoneses y algunos filipinos llamados "Makapilis," contándose entre ellos el aquí acusado, a eso de las tres de la madrugada en el municipio de Santa Rosa, Laguna. Cuando el acusado, los japoneses y dichos alegados Makapilis que le acompañaban llegaron a la casa del Major Santos no encontraron a éste en la misma, puesto que Major Santos estaba escondiéndose arriba de un árbol de avocado en el mismo solar de su casa. Como Major Santos rehusara obedecer las órdenes, al ser descubierto en su escondite, de parte del aludido grupo de captores, éstos, participando el acusado, le bayonetaron. Tal arresto del Major Santos se debe a que él era sospechado como afiliado a una unidad guerrillera. Ya arrestado el Major Santos y en mala condición que le produjeron los bayonetazos que le dieron sus captores, éstos le pusieron en un truck y se le llevaron. Después de la liberación de Santa Rosa, Laguna, por las Fuerzas americanas se encontraron los restos mortales de dicho Major Santos en las cercanías de la escuela elemental de Santa Rosa que fueron identificados como suyos al efectuarse la exhumación.

Pablo Alumno, vecino entonces del desgraciado Major Santos, confirma en todo el testimonio de Candelaria M. Santos tanto en cuanto se refiere al arresto de éste, como

el acto de haber sido bayonetado por órdenes de un tal Arsenio Batitis. Quedó establecido también que todos los que tomaron parte en el arresto del Major Santos, incluyendo el aquí acusado, iban provistos de armas de fuego de diferentes clases.

Demuestran, además, las pruebas que el mismo día 16 de noviembre de 1944, en el municipio de Santa Rosa, Laguna, un grupo de japoneses, acompañados del acusado y otros filipinos identificados con los nombres de Arsenio Batitis, Martín Laurel y Ricardo Beato, todos armados con armas de fuego, fueron a la casa de un tal Roque Lazaga quien entonces guardaba cama por estar algo enfermo. Tales japoneses y filipinos, incluyendo el acusado, pusieron bajo arresto al referido Roque Lazaga amarrándole las manos por la razón de que era, como de hecho lo era, guerrillero. Roque Lazaga fué sacado de su casa y llevado al camino donde le pusieron en un truck y todos se retiraron. Más tarde Julia Alinsod, viuda ahora de Roque Lazaga, fué a buscar a Arsenio Batitis que supuestamente era el cabecilla del grupo de filipinos que acompañaron a los japoneses en el arresto de su esposo, para interceder por la libertad de éste, pero fueron desatendidas sus súplicas. Liberada ya la provincia de Laguna, algunos guerrilleros informaron a la referida Julia Alinsod que su esposo Roque Lazaga había muerto y que un tal Florencio Malapitan la había indicado el sitio donde tuvo lugar la muerte de su esposo hacía un año antes. Julia Alinsod, en compañía de Florencio Malapitan, halló el cadáver de su esposo que fué exhumado e identificado por aquélla, por sus ropas y por su dentadura. Los hechos aquí expuestos los confirma en todos sus detalles Teófila Lazaga, hija de Roque Lazaga, que también declaró como testigo de la acusación.

Aun más, en el mismo día 16 de noviembre de 1944, en el municipio de Santa Rosa, Laguna, el acusado actuando de agente de las fuerzas en Filipinas del Imperio Japonés y con el propósito de dar ayuda y comfort a dicho enemigo, el acusado, con un grupo de hombres armados, participó en la aprehensión y arresto de los hermanos Antonio Alumno y Jurado Alumno, de quienes se sospechaba eran miembros de alguna guerrilla, como también participó el acusado en la tortura, maltrato y ejecución de los mismos. Tales actos cometidos por el acusado se hallan probados por los testimonios de Inocencio Alumno y Sancha Sayao. Declaró el primero que el día 16 de noviembre de 1944, él oyó voz de un hombre que le llamaba y también golpes dados en la puerta de su casa con la culata de un rifle. Resulta que aquel que así le llamaba era un tal Higino Sigue quien entonces estaba armado de un rifle; que dicho Higino Sigue le ordenó que se pusiera la luz; que sin obe-

decer a tal orden el testigo estuvo atisbando de una a otra ventana hacia cierto grupo de personas que estaban abajo y él vió que en dicho grupo estaba el aquí acusado, Arsenio Batitis, Ricardo Beato, Martín Laurel y otros filipinos con el aludido japonés Maykawa quienes todos iban de uniforme de soldados japoneses y portado armas; que dichas personas con quienes estaba el acusado forzaron la puerta de la casa del testigo y entraron en ella arrestando al testigo y maniatando sus manos y luego le pusieron en un truck; pero dicho Inocencio Alumno logró escaparse. Las pruebas indican que con su escapatoria, el acusado y sus compañeros arrestaron a los hijos de aquél llamados Antonio Alumno y Jurado Alumno. En la exhumación de ciertos cadáveres enterrados en la localidad que, durante la ocupación japonesa era sitio del garrison de los japoneses en Santa Rosa, Laguna, Inocencio Alumno pudo identificar los restos de sus susodichos hijos. Sancha Sayao, esposa del mencionado Antonio Alumno corroboró en su testimonio lo testificado por Inocencio Alumno referente al arresto de Antonio Alumno y Jurado Alumno.

Se ha establecido también que en la madrugada del día 24 de noviembre de 1944, el aquí acusado acompañado por varias personas, entre ellas Ángel Beato, Higino Sigue, José Javier Almodovar, Victorio Cardoce, Feliciano Alinsod y Antonio de los Reyes, todos armados y uniformados de uniforme de los soldados japoneses, aprehendieron y arrestaron a un tal Lucio Aguilar en su propia casa situada en el barrio de Tagapos, Santa Rosa, Laguna. Una vez puesto bajo arresto, dichas personas maniataron a Lucio Aguilar colocándole después en un truck y hasta ahora no se ha llegado a saber su paradero, pero después de la liberación de la provincia de Laguna, en la exhumación que se hizo de varios cadáveres, se pudo identificar por Federico Aguilar, hijo de Lucio Aguilar, que de entre los cadáveres encontrados uno era el de su padre. Además, el testigo Florencio Malapitan que era uno de los detenidos en el garrison de los japoneses, pero que consiguió escaparse, certificó haber visto el cadáver de Lucio Aguilar y de otros más, momentos antes de su escapatoria.

En cuanto al cargo No. 2, no encontramos pruebas suficientes para declararlo plenamente probado.

Respecto al cargo No. 8 que atribuye al acusado haber sido miembro de la organización conocida con el nombre de Makapili, diríamos que aunque es cierto que en los testimonios de varios testigos de la acusación se menciona al aquí acusado como uno de los miembros de tal organización, tales testimonios no son satisfactorios ni concluyentes para hacernos llegar a la conclusión de que real y verdaderamente el acusado fué miembro de dicha organización. No

se ha aportado prueba positiva al efecto; ni siquiera se ha presentado la escritura social de la organización en cuestión. El hecho, además, de que el aquí acusado hubiese sido o no miembro de dicha organización no afecta para nada los méritos principales de este proceso. Lo esencial es, que el acusado tomó parte directa en los arrestos arriba mencionados y que con su presencia y cooperación prestó al enemigo la ayuda y comfort para los fines perversos de los enemigos invasores de crueldad, brutalidad y matanza. Como se ve, casi la totalidad de los arrestos fueron ejecutados en las personas de los que eran considerados sospechosos por el enemigo de ser guerrilleros, siéndolo realmente algunos de ellos. En aquel entonces, los japoneses trataban de ocultar las ejecuciones de los arrestados para que el pueblo filipino tuviera la impresión de que los japoneses habían venido a libertarnos de una esclavitud que, todos conocemos, nunca existió en Filipinas, mucho menos bajo la bandera de los Estados Unidos.

Han declarado por la defensa veintiún testigos incluyendo al propio acusado. Hemos leído y releído varias veces los testimonios de los testigos de la defensa y encontramos vacío qué plan o ruta es el que la defensa intenta utilizar para sostener la justificación de los actos delictivos imputados al aquí acusado. Lo único que es de cierta significancia de la defensa interpuesta es que el acusado era un policía de Santa Rosa, Laguna, durante el tiempo de la ocupación japonesa y que estaba principalmente dedicado a cortar y proveer zacate para los caballos de los japoneses, con lo cual nos da de entender que el acusado no participaba en las bárbaras, misteriosas e injustas capturas y arrestos de personas quienes se les tenía por miembros de alguna guerrilla. Admitiendo que el acusado fuera un policía destinado a cortar zacate, ello no era un impedimento para que al obscurecer y durante la noche hasta horas de la madrugada fuera acompañando a los japoneses, juntamente con otros policías para aquellas salvajes aventuras nocturnas. Para mayor abundamiento en contra de la propia defensa del acusado, éste trajo para declarar, como testigos a su favor personas que están también procesadas ante este Tribunal por el delito de traición tales como Arsenio Batitis, José Javier Almodovar, Ricardo Beato, David Cose, Higino Sigue y Eugenio S. Escosura, cuyos procesos, unos se han visto ya, otros pendientes de decisión y los demás en trámite ordinario en las diferentes divisiones de este Tribunal, de lo cual tomamos conocimiento judicial. Tales testigos declararon como probablemente no lo esparaba la defensa, en términos evasivos y meras negativas. Así se han comportado al objeto, sin duda, de no verse, también complicados puesto

que se hallan, como hemos dicho arriba, enjuiciados por igual delito que el del aquí acusado.

Bien es verdad que, como queda expuesto más arriba, algunos de los que fueron arrestados e inmediatamente entregados a las Fuerzas japoneses por el acusado en conjunción con otros filipinos también al servicio del enemigo han muerto, pero las pruebas no acreditan clara y satisfactoriamente que el acusado haya participado directamente en sus ejecuciones.

En los hechos que declaramos probados, como consta más arriba, tomó participación directa el aquí acusado, de una manera libre, voluntaria y con el propósito de dar ayuda y comfort al enemigo, por lo que, inevitablemente tenemos que llegar a la conclusión de que el acusado es culpable del delito de traición, bajo las disposiciones del artículo 114 del Código Penal Revisado, sin que proceda estimar circunstancia alguna modificativa de responsabilidad criminal.

Por tanto, condenamos al aquí acusado a la pena de reclusión perpetua y accesorias de ley, a pagar un multa de ₱10,000 y a pagar las costas de este juicio.

Así se ordena.

Manila, Filipinas, 6 de septiembre de 1946.

LEOPOLDO ROVIRA

Juez Presidente

Concurro:

ANGEL S. GAMBOA

Juez Asociado

REPUBLIC OF THE PHILIPPINES

PEOPLE'S COURT

MANILA

SECOND DIVISION

[CRIMINAL CASE NO. 3534. FOR TREASON]

THE PEOPLE OF THE PHILIPPINES, Plaintiff

VERSUS

GUILLERMO B. FRANCISCO, Defendant

DECISION

The defendant in this case is accused of the crime of treason, defined and penalized under article 114 of the Revised Penal Code. The information alleges—

“That on or about and sometime during the period comprised between the month of January, 1942 and June, 1945, and more particularly and specifically on or about the dates hereinbelow stated, in

the different places in the Philippines hereinafter mentioned, and within the jurisdiction of this Honorable Court, the above-named accused, not being a foreigner but a Filipino citizen owing loyalty and allegiance to the United States of America and to the Commonwealth of the Philippines with the intention of betraying his country and the United States of America did then and there wilfully, unlawfully, feloniously and traitorously adhere to their enemy, the Empire of Japan, against which they were then at war, giving said enemy aid and comfort, to wit:

"I

"That during the Japanese Military occupation of the Philippines, in the City of Manila, the accused Guillermo B. Francisco, for the purpose of giving and with intent to give aid and comfort to the above-mentioned enemy, did then and there wilfully, unlawfully, feloniously and treasonably accept, hold and perform the offices, functions and duties of the following key positions under the puppet Philippine Executive Commission and the Japanese sponsored Republic of the Philippines, taking the corresponding treasonous oaths of loyalty and adherence to the said puppet governments:

- (a) Superintendent of Government Employees Training Institute (October 8, 1942);
- (b) First Assistant Director of the Constabulary (November 16, 1942);
- (c) Director of the Bureau of Constabulary (April 11, 1943);
- (d) Vice-Minister of Interior and Director of Bureau of Constabulary (October 14, 1943);
- (e) Vice-Minister of Home Affairs (January 4, 1944);
- (f) Chairman, National Advisory Board on Public Security with rank of Major General of the Bureau of Constabulary (August 29, 1944).

II

"That on or about June 14, 1942, on the occasion of the Memorial services held at Camp O'Donnell, municipality of Capas, Province of Tarlac, Philippines, the accused, Guillermo B. Francisco,—for the purpose of giving and with intent to give aid and comfort to the enemy,—did then and there deliver and publish a speech extolling the motives and aims of the Japanese Empire in waging the war and in establishing the Greater East Asia Co-Prosperity Sphere, and advise those present to follow a new philosophy of life and to adopt a new outlook and adhere to the principles underlying the idea of Co-Prosperity Sphere in Asia.

III

"That on or about August 9, 1942, in the municipality of Dau, Province of Pampanga, the accused, Guillermo B. Francisco, taking advantage of his rank and position,—for the purpose of giving and with intent to give aid and comfort to the enemy,—did then and there wilfully, unlawfully, feloniously and treasonably deliver and publish a speech the highlights of which read as follows:

"The establishment of the Greater East Asia Co-Prosperity Sphere will inevitably be a boon to the whole human race.
* * * We must never forget that we are Orientals. * * *
Our superficialities, affectations, ostentations and prodigalities are mere veneers of Occidental civilization which have been forced upon us as subject people of Occidental Nations.
* * * We must be imbued with the idea of the Greater East

Asia Co-Prosperity Sphere, understandfully the motives with which it was conceived and without mental reservation wholeheartedly collaborate with all the Oriental nations in its successful establishment, for therein lies our salvation as a nation."

IV

"That on or about August 13, 1942, in the City of Manila, Philippines, the accused, Guillermo B. Francisco,—for the purpose of giving and with intent to give aid and comfort to the enemy and with evident intention of alienating the affection and loyalty of the Filipino people from the United States and the Commonwealth of the Philippines,—did then and there wilfully, unlawfully, feloniously and traitorously deliver and publish a speech over radio station KZRH, stating that:

"That establishment of the Greater East Asia Co-Prosperity Sphere will inevitably be a boon to the whole human race. Embracing the oriental nations inhabited by Oriental peoples composing the majority of the human race, its successful establishment on foundation of love, justice and fair dealing will lead the world to the great ideal of world brotherhood with prosperity, happiness and enduring peace for all nations of the earth. * * * We must be imbued with the idea of the Greater East Asia Co-Prosperity Sphere, understand fully the motives with which it was conceived and wholeheartedly collaborate with all Oriental nations in its successful establishment, for therein lies our salvation as a nation. There can be no more opportune time than now in establishing a New Philippines with solid economic, political, moral and spiritual foundations, while we come under the folds of the magnanimous and benevolent wings of the Japanese Empire." * * *

V

"That on or about August 16, 1942, at Camp del Pilar, municipality of Dau, Province of Pampanga, Philippines, the accused, Guillermo B. Francisco, taking advantage of his rank and position,—for the purpose of giving and with intent to give aid and comfort to the enemy,—did then and there wilfully, unlawfully, feloniously and traitorously deliver and publish a speech impressing upon the Filipinos the necessity of assimilating the point that the Japanese are here in the Philippines to give us independence and self-sufficient existence and not to colonize this country."

VI

"That on or about August 20, 1942, in the municipality of Dau, Province of Pampanga, the herein accused, Guillermo B. Francisco,—for the purpose of giving and with intent to give aid and comfort to the enemy and in order to undermine the faith and loyalty of the Filipino soldiers to the United States and the Commonwealth Government,—did then and there wilfully, unlawfully, feloniously and traitorously deliver and publish a speech at the Hall of Camp del Pilar of said municipality, the highlights of which speech read as follows:

"We went into the war without knowing the real intentions of our opponents. The Japanese we were told and blindly believed had come to take our country from us. * * * Little did we think at the time that the Japanese people had come not as our enemies but as our friends. * * * It was a start-

ling revelation to us when we found out, after all the fighting in Bataan was over, that what the Imperial Japanese Forces were fighting for was the liberation of the Oriental peoples and that her Ideal of Greater East Asia Co-Prosperity Sphere embraces all peoples in the Orient and is motivated with the sole object of seeking the common prosperity, happiness and lasting peace for all the Oriental countries, including the Philippines, co-inhabiting the Great East Asia region. * * *

"The much boasted strength of the American Forces was made ineffective with lightning speed by the Imperial Japanese Forces. The American Navy which was to bring help was destined not to arrive. * * * The much heralded Air Force that was to arrive from the United States never did show up. * * * Daily we lived on hope and were made to live only on hope. * * * The ample ration of U. S. Army in peace time was no where to be found for us Filipino officers and men. * * * We must have full trust and confidence in the leadership of Japan, the great benefactor of all oriental peoples and make ourselves worthy of her trust and of her guidance."

VII

"That on or about September 4, 1942, in the municipality of Dau, Province of Pampanga, Philippines, the accused, Guillermo B. Francisco,—for the purpose of and with the intent, to adhere to the enemy, giving said enemy aid and comfort,—did then and there wilfully, unlawfully, feloniously and traitorously deliver and publish a speech before the Filipino prisoners of war, and the object of which is to indoctrinate the prisoners of war into the Co-Prosperity ideologies of the enemy, portions of which speech are as follows:

"We are inaugurating today the third Educational Course in this Camp. * * * It is my firm belief that the soldiers will learn here the foundation for a prosperous, happier and greater Philippines, which can contribute in the formation of the Greater East Asia Co-Prosperity Sphere under the leadership of Japan. * * *

"First of all, the Filipinos should eliminate foreign influences which besmirch their original Oriental customs and undermine national strength. The Japanese Empire wishes the Philippines to open its eyes to the realization of the present situations and to realize that Asia is for the Asiatics. * * *

"As I have already stated in the beginning, the Officers entrusted with the task of teaching the Filipino soldiers the rejuvenations of a New Philippines under the benevolent leadership of Japan, sincerely hope that they will have an alert and receptive mind to take advantage of the opportunities that lay before them during their stay in the Camp Del Pilar."

VIII

"That on or about September 18, 1942, at Camp O'Donnell, within the municipality of Capas, Province of Tarlac, Philippines, the accused, Guillermo B. Francisco,—for the purpose of giving and with intent to give aid and comfort to the enemy,—did then and there wilfully, unlawfully, feloniously and traitorously deliver and publish an address on the occasion of the unveiling of the monument for dead Filipino soldiers, the pertinent and salient points of which read as follows:

"The Japanese Expeditionary Force in the Philippines has magnanimously donated this memorial monument in honor of

our dead. This is very touching to our hearts and words are not adequate to express our gratitude for such gallant action. * * *

"That the cause for which we fought, we believed was noble and sublime but when the smoke of battle cleared away, we found out to our great sorrow and dismay that we did not have any cause to go to war after all. We went into the war without knowing the real intentions of our opponents. The Japanese, we were told and blindly believed, had come to take our country from us; to destroy our right and hope to grow as an independent nation and to keep us in eternal subjugation.' * * *

"It was a startling revelation to us when we found out, after all the fighting in Bataan was over that what the Imperial Japanese Forces were fighting for was the liberation of the Oriental People and that her ideal of the Greater East Asia Co-Prosperity Sphere embraces all Oriental peoples and is motivated with the sole object of establishing common prosperity, happiness and lasting peace for all the Oriental countries, including the Philippines, co-inhabiting the Greater East Asia region.

"Now that the battle is over and realizing our great mistake, we must face the future with courage and clear vision of our destiny. * * * We must build up a New Nation, a better and greater Philippines. * * * We must have full trust and confidence in the leadership of Japan, the great benefactor of all Oriental peoples and make ourselves worthy of her trust and her guidance.'

IX

"That on or about November 6, 1942, in the City of Manila, Philippines, the accused, Guillermo B. Francisco,—for the purpose of giving and with intent to give aid and comfort to the enemy, and with the evident intention of alienating the loyalty of the Filipino people from the United States and Commonwealth Governments, in order to bring them closer to the enemy,—did then and there wilfully, unlawfully, feloniously and traitorously deliver and publish a speech over station KZRH, the highlights of which speech read as follows:

"In the First World War, the Philippines was spared from the horrors of war and the natural effects of all armed conflicts. But this time, due to our political relations with the United States we were dragged into the conflict resulting in the loss of many lives and destruction of properties unnecessarily. * * *

"Our victorious opponents with the fair play characteristic of the spirit of "Bushido" have been the first to recognize the heroism with which we fought against them, and knowing that we were mistaken in the cause for which we were fighting, they, our erstwhile opponents, now our closest friend had pity in their hearts for us and for the whole situation. * * *

"Had we known at the beginning of the magnanimous and benevolent intentions of Japan and the truth that she was fighting the Greater East Asia War for the liberation of Oriental peoples from the domination of the Occidental we would not have considered Japan as our enemy but as the champion and leader of a common cause as we do now. * * *

"We soon realized that we had no quarrels with the Jap-

anese people and more, that they had no quarrel with us. We believed during our preparation for the war that the Japanese were the enemy of our national cause and that we should fight them to the bitter end. The outcome of this short conflict of arms was bitter for us but what makes it more bitter was not the defeat on the battlefield but the realization that we are fighting our friend and liberator of the Oriental people. * * * We must have full trust and confidence in the leadership of Japan, the great benefactor of all Oriental peoples and make ourselves worthy of her trust and of her guidance.'

And for the purpose of giving greater publicity and effect to the said speech, the accused did further repeat the same speech before the student body of the Bureau of Constabulary at the Academy Building No. 1, located in the City of Manila, on the following day."

X

"That on or about December 13, 1942, in the City of Manila, Philippines, the herein accused, Guillermo B. Francisco,—then a released prisoner of war of the enemy, Japan, for the purpose of adhering to the said enemy and with the intent to give it aid and comfort,—did then and there prepare, write, issue and cause to be published in the *Sunday Tribune Magazine*, a paper of general circulation in the Philippines, an article stressing the greatness and magnanimity of Japan and condemning the American war efforts and motives in the Philippines, the pertinent and salient portions of which reads as follows:

"'In the First World War, the Philippines was spared from the horrors of war and the natural after effects of all armed conflicts. But this time, because of our political relations with the United States, we were dragged into the conflict, with the consequent loss of many lives and destruction of property unnecessarily. * * *

"'Our victorious opponents with the fairplay characteristic of the spirit of *Bushido* have been the first to recognize the heroism with which we fought against them, and knowing that we were fighting, they, our erstwhile opponents and now our closest friends, had pity in their heart for us and for the whole situation. * * *

"'It was a startling revelation to us when we found out, after all the hostilities in Bataan were over, that what the Imperial Japanese Forces were fighting for was the liberation of the Oriental peoples and that her ideal of Greater East Asia Co-Prosperity Sphere embraces all peoples in the Orient and is motivated by the sole object of seeking the common prosperity, happiness and lasting peace for all the Oriental countries, including the Philippines, co-inhabiting the Greater East Asia region.

"'Had we known at the beginning, of the magnanimous and benevolent intentions of Japan and the truth that she was fighting the Greater East Asia War for the liberation of Oriental peoples from the domination of the Occidentals, we would not have considered Japan as our enemy but as the champion and leader of a common cause, as we do now. * * *

"'Daily we lived on hope and were made to live only on hope. Troops, guns, planes, battleships, ammunition and supplies were to arrive in great numbers and quantity. We hoped and hoped for reinforcements that were promised to be coming.

but as we found out subsequently, we had been living in false hopes, the reinforcements never came. We held our patience and fought to the limit of endurance of our morale, spirit and physique. We were told never to give up. The American Army has never lost a war in its history.'

XI

"That on or about February 8, 1943, in the City of Manila, Philippines, the accused, Guillermo B. Francisco,—then Assistant Director of the Bureau of Constabulary, for the purpose of impressing upon the Constabulary trainees their duties and obligation to suppress guerrilla activities, with intent to give aid and comfort to the enemy,—did then and there deliver and address before said trainees, the pertinent portions of which are as follows:

" 'When I was requested to address you this morning, I could not very well refuse but acquiesce to the request. I consider it an obligation on my part to give you the experience of men old in service, who had devoted a big portion of their lives for the maintenance of peace and order. * * * So, when you go out on patrol in the field, you will likely meet those bad elements called "guerrillas" and if you fight them you will not be fighting your former comrades, I hear a few Americans in organized resistance against the present government. If I were an American, I may do the same. They are American and are still clinging to the remote possibility that the Americans may come back, and therefore cherish that hope. * * * We should coöperate with the Japanese Military Administration and in that way we are cooperating with our government and towards the prosperity of our people.

" 'The Constabulary is distributed throughout the country for construction—to construct, to build and serve as an element for the building of a new Philippines. * * *

" 'Today is the day for the celebration of the statement made by the highest representative of the Japanese Empire that is the grant of independence to the Philippines. * * * Therefore, when we are coöperating with the Japanese Military Administration, we are working for our independence, the same spirit which brought us fighting in Bataan. * * * All of you in this Academy—always bear in mind that you are Constabulary men charged with the task of reconstructing the New Philippines.'

XII

"That on or about March 4, 1943, the accused, Guillermo B. Francisco, for the purpose of giving and with intent to give aid and comfort to the enemy, did then and there wilfully, unlawfully, feloniously and treacherously write, issue and circulate letters addressed to various guerrilla leaders then carrying on resistance movement against Japan, calling upon them to stop their activities and impressing upon them the uselessness of carrying on the resistance against Japan; portion of which read as follows:

" 'The war in the Philippines has ceased and any further resistance is futile and would not have a bearing on the main issue and will only sacrifice unnecessarily further human lives.' * * *

" 'I would like to appeal to your sense of patriotism and love of country to give up your present attitude and to come under the law and under the protection of the Imperial Japanese Army and of this government.' * * *

"'Make efforts also to collect as many firearms as possible and bring them with you when you surrender.' * * *

"'Please contact our other comrades who are still in the mountains and to appraise them of my attitude in this matter. * * *

XIII.

"That on or about March 26, 1942, in the City of Manila, Philippines, the accused, Guillermo B. Francisco,—with evident intention of giving the enemy aid and comfort,—did then and there wilfully, unlawfully, feloniously and treasonably make a statement in an interview with the Domei News Agency, explaining his reactions and feelings regarding the fall of Bataan and the collapse of American resistance, which statement reads as follows:

"'With the fall of Bataan, I always thought, implies also the fall of Corregidor, and with this the American sovereignty in the Philippines will come to an end. As I look back to the turmoil of the war with the devastation of my country and loss of lives of many of my people and the supervening ill effects, war was to be deplored and more so when the Japanese Imperial Army in coming to the Philippines was for the purpose of liberating this country from Occidental dominations and place it in an honorable position among the free peoples in the Far East.'

XIV

"That on or about April 15, 1943, in the City of Manila, Philippines, the accused, Guillermo B. Francisco,—then Director of the Bureau of Constabulary, for the purpose of giving and with intent to give aid and comfort to the enemy, did then and there wilfully, unlawfully, feloniously and traitorously deliver and address to the graduating officers of said Constabulary Academy, impressing upon them the importance of their duties about the fulfillment of the requisite imposed by Japan for the establishment here of an independent government, the salient points of which reads as follows:

"Every Constabulary man should have a strong sense of loyalty to his organization. * * * You should perform courageously your work as peace officers, particularly in this period of reconstruction when various detachments of the Constabulary distributed throughout the country, are performing their difficult tasks as workers for the building of a New Philippines.' * * *

"'Work for the maintenance of law and order. Make it as your guiding star; * * * All of you from this Academy, always bear in mind that you are Constabulary men charged with the task of doing your part in reconstructing the New Philippines.'

XV

"That on or about April 28, 1943, in the City of Manila, Philippines, the accused, Guillermo B. Francisco,—in his capacity of Director of the Constabulary, for the purpose of giving and with intent to give aid and comfort to the enemy, did then and there wilfully; unlawfully, feloniously and traitorously deliver a speech to the graduating officers of that body, calling upon them to help suppress the existing resistance movement, pertinent portions of which reads as follows:

"'Perform courageously your work as peace officers. Persons who wear the uniform should not only have enough

courage to carry their guns to a place where they are expected to contact the misguided lawless element, but they should also have courage to stand on their ground and if necessary die a heroic death.' * * *

"On this trying period of our history, our country demands of us the last drop of pure distilled patriotism, for us to carry on our struggle to attain our long cherished dream of independence. My parting words to you are these: Answer unselfishly the call of duty. Perform your duties courageously and impartially, and above all, honestly, and bear in mind that as Constabulary men you are also charged with the task of doing your part in the establishment of the New Philippines.'

XVI

"That on or about June 16, 1943, in the City of Manila, Philippines, the accused, Guillermo B. Francisco,—then Director of the Bureau of Constabulary, for the purpose of giving and with intent to give aid and comfort to the enemy,—did then and there make and issue a press statement, which was published in the *Manila Tribune* on June 16, 1943, to the effect that 'with the Imperial Japanese Navy in full control of the Philippines and surrounding waters, I believed it would be very improbable for the Americans to launch an attack against the Islands.'

"That on or about August 31, 1943, in the City of Tagaytay, Province of Cavite, the herein accused, Guillermo B. Francisco,—for the purpose of adhering and with intent to give aid and comfort to the enemy, did then and there say, utter and deliver a speech at the Cultural Institute in the said City of Tagaytay, the pertinent and salient points of which reads as follows:

"I have chosen to talk about peace and order in the Philippines today when independence will have been granted by the benevolent leader and guardian of the Far East—Japan—because I believe that the existence of a nation and maintenance of its stability depend upon the state of its peace and order both internally and externally.'

"When enemy citizen of the New Philippines begins to realize that his attitude and concern to the problems of tranquility and quiet and orderly processes are as important and necessary as those of the highest functionary of the government, a big forward step will have been taken towards revolutionizing the present system of law-enforcement.' * * *

"Thanks for the far-sighted statesmanship of our leaders today we have a New Philippine Constabulary dedicated to the promotion of internal peace and order in the Philippines. * * * However, there are a few of our misguided countrymen, who are still conducting guerrilla activities, which in some cases have degenerated to brigandage, pillaging, robbery and murders. * * * It is against these elements that the present Philippine Constabulary has been organized and is being enlarged as fast as trainees complete their prescribed course and are graduated.' * * *

"To you—I appeal for help in the campaign for complete pacification of the Philippines.' * * *

"Japan has offered us independence, * * * We must show Japan that we can maintain peace and order so that the realization of our promised independence will not be delayed.'

XVIII

"That on or about November 12, 1943, in the City of Manila, Philippines, the herein accused, Guillermo B. Francisco, in his capacity as Director of Constabulary, for the purpose of giving and with the intent to give aid and comfort to the enemy, wrote, prepared and edited a memorandum entitled 'Organization of the Philippine Constabulary,' copies of which he submitted to the President of the so-called Republic of the Philippines, Jose P. Laurel, in which memorandum the herein accused presented an outline and table of organization for a Constabulary based on the initial strength of forty thousand (40,000) officers and men and having as one of its salient features a plan to give both military and police training to its forces, for the purpose of preparing them for combat duty against the 'enemy' a term he used to designate the United States of America and its allies.

XIX

"That on or about December 1, 1943, in the City of Manila, Philippines, the herein accused, Guillermo B. Francisco, as Director of the Bureau of Constabulary, for the purpose of suppressing the guerrilla activities in Central Luzon, and for the purpose of giving and with intent to give aid and comfort to the enemy, did then and there wilfully, unlawfully, feloniously and traitorously order Lt. Col. Fidel N. Cruz to take command of all Constabulary Units in Central Luzon with the instructions, among others, to advise the commander of local Japanese Garrison in the provinces concerned of any field operation he might undertake, and in order to further carry out his intention to adhere to and give it aid and comfort, by suppressing the resistance movement by force of arms, increased the strength of the Constabulary in Nueva Ecija to 735 men and 36 officers, the herein accused submitting a report of this order and an account of the disturbed condition in Nueva Ecija and neighboring provinces to the Minister of the Interior for the latter's information.

XX

"That in or about and sometime during the period comprised between the months of June, 1943, and August, 1944, in the City of Manila, Philippines, the herein accused, Guillermo B. Francisco, then Director of Constabulary, for the purpose of giving and with the intent to give aid and comfort to the enemy, conducted a pacification campaign intended for the suppression of the resistance movement, in the Philippines, in the course of which campaign, herein accused in order to make his campaign more effective, received and used government money in paying among others the compensation of agents, under-covermen and informers.

XXI

"That on or about December 5, 1944, in the City of Manila, Philippines, the herein accused, Guillermo B. Francisco, as Chairman of the National Advisory Board on Public Security, for the purpose of giving and with the intent to give aid and comfort to the enemy, did then and there wilfully, unlawfully, feloniously and treasonably write, prepare and submit to the President of the so-called Philippine Republic, Jose P. Laurel, a memorandum wherein he reported guerrilla activities in the different provinces of Luzon, and wherein he reported the raids made by American planes in November, 1944, as 'enemy air raids.

XXII

"That on or about December 22, 1944, the herein accused, Guillermo B. Francisco, then Director of Constabulary and Vice-Minister of State for Home Affairs, for the purpose of giving and with the intent to give aid and comfort to the enemy, and with the evident purpose of showing his unswerving loyalty to the so-called Republic of the Philippines, left and abandoned the City of Manila and fled to the City of Baguio, where the puppet Laurel Government had fled to, and in which place (Baguio) the herein accused remained and continued to perform the duties and functions of his office until April 17, 1945.

"Contrary to law."

Upon his plea of not guilty, the accused was duly tried. After the prosecution had rested its case, the defense moved for dismissal for lack of evidence.

STATEMENT OF THE EVIDENCE

The following is a statement of the evidence presented by the prosecution, count by count:

Count 1.—The prosecution presented the following exhibits in support of this count:

Exhibits A, B, B-1, D, D-1, E, E-1, F, F-1, G, H and I.

Exhibits A to F-1, inclusive, were presented by the prosecution to show that the accused occupied these position:

- (a) Superintendent of Government Employees Training Institute;
- (b) First Assistant Director of Constabulary;
- (c) Director of the Bureau of Constabulary;
- (d) Vice-Minister of Interior and Director of Bureau of Constabulary;
- (e) Vice-Minister of Home Affairs; and
- (f) Chairman, National Advisory Board on Public Security, with rank of Major General of the Bureau of Constabulary.

Exhibits G, H and I, among others, were presented to show that the accused performed the functions and duties of the above-named offices.

Emiliano Punzal, Chief of the Records Division, Malacañan, during the Japanese occupation and at present, testified that Exhibit A is a certified true copy of the original document on file in the official records of the Office of the President, Malacañan. The defense made the admission that Exhibits B, C, D, D-1, E, E-1, F, F-1, G, H and I are certified true copies of the originals.

Arsenio Bonifacio, Assistant Commissioner of the Interior during the Japanese occupation, testified that Exhibit B is an appointment issued to the accused as First Assistant Director of Constabulary, a position which the accused actually assumed; that on November 24, 1943, the accused was appointed Director of Constabulary and Vice-Minister of Home Affairs just to increase his salary.

Upon cross-examination, this witness testified that the accused, as Vice-Minister of Home Affairs, had the same duties as those which he had in the Bureau of Constabulary.

Marciano Roque, before and during the Japanese occupation, Administrative Officer in the Department of the Interior and later Ministry of Home Affairs, testified that he saw the original of Exhibit B which is an appointment issued to the accused as First Assistant Director of the Bureau of Constabulary; that Exhibit C is a copy of the appointment issued to the accused as Director of the Bureau of Constabulary, the original of which the witness saw; that the witness remembers that the accused was appointed as one of the Vice-Ministers of Home Affairs, and that Exhibit G is a memorandum which must have been sent through his department for approval and that witness signed its original.

Emilio Abello, at one time Executive Secretary of the Japanese sponsored Republic of the Philippines, testified that the accused was at one time Chief of Constabulary; that when the witness assumed office as Executive Secretary he already found the accused in Malacañan as adviser on public security; that the accused also occupied at one time the position of Vice-Minister of Home Affairs. Upon cross-examination, this witness testified that the accused was Director of Constabulary before he was appointed Chairman of the Advisory Committee on Public Security; that the accused was relieved of his duties as Chief of Constabulary because he was a *persona non grata* to Yamashita; that the accused was appointed Vice-Minister of Home Affairs because he was the Chief of Constabulary; that the witness does not know whether there were certain specific functions which the accused, as Vice-Minister of Home Affairs, had to perform; and that the witness never saw a document which the accused signed as Vice-Minister of Home Affairs.

Felino Neri, Director of the Executive Bureau and later Assistant Executive Secretary during the Japanese occupation, testified that he remembers the accused to have been Chief of Constabulary during the Japanese occupation.

Leoncio S. Tan, a major in the Philippine Army, testified that he worked in the Bureau of Constabulary during the Japanese occupation, first as Senior Inspector of Cagayan and later of Bulacan, that his Chief in the Constabulary was Gen. Jose de los Reyes and afterwards the accused; that the witness remembers having received a document similar to Exhibit G but is not sure of its detailed contents.

Jose D. Ingles, Private Secretary and later Assistant Executive Secretary to the President of the Republic during the Japanese occupation, testified that the accused held

the position of Chief of Constabulary and Vice-Minister of Home Affairs.

Bienvenido Alba, an officer in the United States Army testified that during the Japanese occupation the accused held the position of Chief of Constabulary.

Augusto Revilla, an employee in the Court of First Instance of Manila during the Japanese occupation, testified that he was among the first group of employees sent to the Government Employees Training Institute in October, 1942, that there the students were taught civil government, oriental culture, music and Nippongo; that among the instructors were a Mr. Sevilla, a Mr. Amamoto and another named Iwato; that in addition to the subject taught the students were told that the Japanese Empire was a great empire and that they would win the war; and that the superintendent of the Institute was the accused.

Antonio Aspillera, an employee in the Bureau of Public Service during the Japanese occupation, testified that he was sent to the Government Employees Training Institute to learn new ideas taught by the new régime; that there the students were taught Nippongo, judicial administration and the history of Japan; that there were several instructors, some 4 or 5 Japanese, and a Mr. Gonzales and one Amado del Rosario; that the head of the Institute was the accused; that when the students were sent to said Institute they were given a circular which came from the Chairman of the Executive Commission the gist of which had something to do with the Greater East Asia Co-Prosperity Sphere.

Count 2.—Abandoned.

Count 3.—Abandoned.

Count 4.—The witnesses presented by the prosecution on this count were Maximo Janairo and Marcelo S. Victoriano.

Maximo Janairo, a Lieutenant-Colonel in the United States Army, testified that he was confined as a prisoner of war in Camp O'Donnell, Capas, Tarlac, from April 26, 1942 to September 9, 1942; that while he was in said camp in the month of August the Japanese interpreter told him to tune in his radio because General Francisco was going to speak over the radio; that he did so and heard some one whom he took to be General Francisco speaking "about the value of the training received at Camp Dau and about the benevolence and magnanimity of the Japanese and about the new ideals for the Philippines." Upon petition of defense counsel this witness' testimony with reference to the radio speech was stricken out on the ground that said witness admitted that he was not familiar with the voice of the accused over the radio.

Marcelo S. Victoriano, a writer and newspaperman, testified that during the Japanese occupation he was employed in radio station KZRH which was primarily used for the dissemination of propaganda under the Department of Information of the Imperial Japanese Forces; that during the year 1942 he saw the accused speak over station KZRH two times; that he does not remember the exact dates when those broadcasts were made; that he does not remember any more the speeches which the accused made but that in those days most of the speakers were referring or pleading always for coöperation with the Japanese extolling the administration of the Japanese in the Islands, more or less, the theme was co-prosperity sphere. On cross-examination, this witness testified that when the accused went to radio station KZRH to broadcast he was accompanied by Japanese officers. He reiterated that he does not remember what the accused actually said.

Count 5.—The witnesses presented by the prosecution on this count were Godofredo Mendoza and Maximo Janairo.

Godofredo Mendoza, a Major in the MPC, PA, testified that after having been confined as a prisoner of war in Camp O'Donnell, Capas, Tarlac, he was transferred to Camp del Pilar, Dau, Pampanga, in June, 1942, where he stayed until October 3, 1942; that on August 16, 1942, on the occasion of the opening exercises for officers who were to undergo rejuvenation training in Camp del Pilar, the witness heard the accused deliver a speech wherein he, more or less, advised the officer who would undergo the course of instruction to have confidence in the instructors who were assigned to them and that they should exert efforts to absorb the instructions; that the accused also said that the Japanese were establishing a co-prosperity sphere which they had to accept whether they liked it or not because they were under the Japanese.

Maximo Janairo testified that on the occasion of the opening exercises for the second group of officers who were to undergo rejuvenation training in Camp del Pilar sometime in August, 1942, he heard the accused deliver a speech the substance of which was an advice to the prisoners of war to make the most out of the training in Camp Dau.

Count 6.—The witnesses presented by the prosecution on this count were Godofredo Mendoza and Margarito Torralba.

Godofredo Mendoza testified that the accused delivered a speech in Tagalog in Camp del Pilar, Dau, on August 20, 1942, but the witness was unable to understand the tenor of the speech delivered because he is not well versed in Tagalog.

Margarito Torralba, commanding officer of Camp Murphy, testified that about the middle of July, 1942, he was transferred from the prisoner of war camp at Capas, Tarlac, to Camp del Pilar, Pampanga; that during the witness' stay in Camp del Pilar, he heard the accused deliver a short speech in Tagalog; that witness cannot remember on what date that speech was delivered; that as witness understood only a little Tagalog he had to ask his companion, the late Col. Fidel Cruz, what the speech was about to which Col. Cruz replied that the speech of the accused was a sort of an admonition to the prisoners to comply as strictly as possible with the regulations, because their release depended on their good behaviour.

Count 7.—On this count the prosecution again presented Godofredo Mendoza who testified that he heard the accused deliver a speech on September 4, 1942, in Camp del Pilar, Dau; that the speech was also in Tagalog and, therefore, he did not understand it well.

On cross-examination, the following facts were also elicited from this witness, that on August 10, 1942, the witness and the accused were put on parole, that is, they were allowed to go out of camp after asking permission from the Japanese; and that when they wanted to go out they had to ask for week-end passes and they had to return to camp for they were not allowed to remain permanently in their house.

Count 8.—No evidence was introduced by the prosecution on this count.

Count 9.—No evidence was introduced by the prosecution on this count.

Count 10.—The evidence presented by the prosecution on this count were the testimony of the witnesses Jose P. Bautista and Paz Carreon and Exhibit N.

Jose P. Bautista, a newspaperman, testified that during the Japanese occupation he was announced as editor of the *Tribune*; that Exhibit N is a copy of the *Sunday Tribune* issued and circulated on December 13, 1942; that witness did not know anything about the article which appears in Exhibit N; that there was some talk about the article and witness knew that it was going to be somewhat like the article as printed but that it was Francisco Icasiano who was in charge of the magazine. On cross-examination, this same witness testified that during the Japanese occupation the *Tribune* was under the control of the Japanese Administration; that witness does not know who prepared the article appearing in Exhibit N.

Paz Carreon, a newspaperwoman, testified that during the Japanese occupation she was a proof-reader in the *Sunday Tribune*, which at that time was a newspaper of general

circulation; that the article appearing in Exhibit N was an article sent to the *Tribune* by the *Hodobu* or Japanese Board of Information; that the original of the article appearing in Exhibit N was typewritten, double space, bearing a scrawl which was meant for a signature. On cross-examination, this same witness testified that the original of the article which appears in Exhibit N was not received by her but by the editor (of the *Tribune*); that she did not see who delivered the article to the editor; that the article had the stamp of the Japanese Propaganda Corps; that the scrawl in the article was in ink and was illegible; and that she does not know the signature of the accused. On re-direct examination, this witness testified that the editor of the *Sunday Tribune Magazine* at that time was Francisco B. Icasiano.

Count 11.—No evidence was presented by the prosecution on this count.

Count 12.—The evidence presented by the prosecution on this count were the testimony of the witnesses Placido Ausejo and Edwin Andrews and Exhibit P.

Placido Ausejo, a Lieutenant Colonel in the Philippine Army, testified that he was an officer in the Philippine Army at the outbreak of the war and that he never surrendered; that Exhibit P is a copy of the letter which he received from the accused while he (witness) was in the Negros Island area; that witness does not have the original of Exhibit P, because it was turned over to Major Jesus Villamor who shipped it by submarine to the general headquarters in Australia; that at the time witness received the original of Exhibit P he was in the guerrilla organization in Negros Island. On cross-examination, this witness testified that the letter which he delivered to Major Villamor was handed to him (witness) by one of his guerrilla officers named Federico Ridad who is now in Leyte; that when witness examined Exhibit P in the Office of the Special Prosecutors he could not compare it with the letter which he received from Federico Ridad because he did not have that letter anymore; that witness cannot say whether each and every word which appears on Exhibit P was in that letter delivered to Major Villamor; that Exhibit P is a carbon copy of the original which he received but that inasmuch as said original is not in court, he could not tell if Exhibit P is an exact copy thereof.

Edwin Andrews, an officer in the Philippine Army, testified that about the middle part of 1943, he was in the Island of Negros with the resistance movement; that witness knows Placido Ausejo, who was the executive officer of the guerrilla unit under Colonel Abcede; that witness had never seen Exhibit P until it was shown to him by the

prosecutors, but that he has a similar, if not a verbatim, copy of Exhibit P, which was sent to him by Major Ausejo sometime in 1943. On cross-examination, this witness testified that he has no personal knowledge that the accused wrote a letter to Placido Ausejo and could not say whether the copy sent to him by Ausejo was a real copy of the letter written by the accused.

Count 13.—The prosecution did not present any evidence on this count.

Count 14.—Only one witness Alfredo N. Santos, was presented by the prosecution on this count. This witness testified that on dates which he does not remember he heard the accused address the graduating classes in Constabulary Academies Nos. 1 and 2 and in other academies in Manila; that the tenor of all the speeches was more or less: "he told the Constabulary graduates that the Philippine Constabulary has a brilliant record of service to the Filipino people in the matter of maintaining peace and order, and that Constabulary officers should be models of character, of integrity, of honor, of patriotism, and so forth, and that as Constabulary soldiers they should protect the life and property of the people, help the needy and the weak, and do their utmost effort to help the nation survive the crisis;" that the accused also said: "Help your people, help your country survive. Reconstruct and make the ravages of war less felt by our people."

Count 15.—The prosecution did not present any evidence on this count.

Count 16.—The only evidence presented by the prosecution on this count is the testimony of the witness Jose S. Bautista and Exhibit S. This witness testified that Exhibit S is a clipping from the issue of the *Tribune* dated June 16, 1943; that the statement appearing in said Exhibit could have been published under these possibilities; first and foremost it was very likely that a Japanese reporter did the interview, wrote it in Japanese, then it was translated into English and given to the staff to run and publish; that the other possibility is that it was sent to the staff already written. On cross-examination, the witness testified that the *Tribune* was under the control of the Japanese Administration during the Japanese occupation; that maybe the statement appearing on Exhibit S was prepared by Japanese reporters.

Count 17.—No evidence was presented by the prosecution on this count.

The evidence presented by the Prosecution on this Count were Exhibits R and R-1 and the testimony of Emilio Abello. Exhibit R is a letter of President Laurel to the accused, dated November 26, 1943, acknowledging receipt of the proposed plan, Exhibit R-1, of the "Organization

of the Philippine Constabulary," which the accused had submitted to Laurel.

Emilio Abello testified that as Executive Secretary of President Laurel, he is familiar with his (Laurel's) signature; that the signature which appears in Exhibit R is the signature of Mr. Laurel; and that the signature which appears in Exhibit R-1 is the signature of the accused.

Count 19.—On this count the prosecution presented the testimony of Marciano Roque and Irineo Buenconsejo and Exhibits J, J-1 and J-2.

Marciano Roque testified that he is acquainted with the signature and initials of ranking officials of the bureaus and offices under the Department of the Interior during the Japanese occupation; that the signature appearing in the letter, Exhibit J, is the signature of the accused.

Irineo Buenconsejo, a colonel in the Philippine Army, testified that at one time during the Japanese occupation he was the Executive Officer of the Bureau of Constabulary; that the witness is familiar with the signature of the accused; that the signature which appears in Exhibit J appears to be the signature of the accused; that Exhibit J-1 seems to be a copy of the original which the witness signed and which was given to Col. Fidel N. Cruz; that the accused directed the witness to prepare Exhibit J-1 due to the prevalence of banditry and others forms of lawlessness in the Province of Nueva Ecija, such as robbing trains, the snatching of jewelry from the ears of women passengers, and many other acts of lawlessness; that Exhibit J-2 was signed by the witness and coursed in due order. On cross-examination, this witness testified that he saw Exhibit J—before it was forwarded; that the accused called Col. Fidel N. Cruz and the witness and gave Col. Cruz instructions to make an understanding with the guerrillas in connection with his duties; that said instructions could not appear in Exhibit J for obvious reasons; that at that time the Constabulary was in good terms and had an understanding with the guerrilla; that when the witness used the words "banditry" and "lawlessness" he did not mean guerrillas; that Exhibit J was issued because there were many bandits who were attacking trains, robbing passengers, especially getting their money, clothing, etc.; that witness cannot swear that Exhibit J-1 is an exact copy of the original.

Count 20.—To prove this count the prosecution presented the following evidence, the testimony of Arsenio Bonifacio, Marciano Roque, Irineo Buenconsejo, Patricio Monson, Emiliano Punzal, Edwin Andrews, Edgar Bond, Felipe Pilapil, Jr., Jose D. Ingles, Felino Neri, Bienvenido Alba, Ricardo V. Angeles and Eleuterio de Leon and Exhibits K,

K-1 to K-33, L, M, O, T, U, U-1 to U-5, V, V-1 to V-3, W, W-1, to W-50, X, X-1 to X-32, Y, Y-1 to Y-58, Z, AA, BB, CC, DD, EE, EE-1.

Arsenio Bonifacio testified that Exhibit M bears his signature but that he does not know whether the treasury warrant mentioned therein was sent to the accused. On cross-examination, this witness testified that the so-called pacification fund was used to help the impoverished veterans of Bataan; that with respect to the money mentioned in Exhibit M, the accused used that to help his companions in Bataan and Corregidor who had no money and medicine.

Marciano Roque testified that Exhibit M was a letter sent by his office to the accused, enclosing a treasury warrant in the amount of ₱5,000 to cover the travel and contingent expenses of the accused in connection with the pacification campaign; that it may be presented that Exhibit M was actually sent to the accused because there is no indication that it was withdrawn; and that in the Department of the Interior it was the practice that persons receiving money or warrants should acknowledge receipt thereof. On cross-examination, this witness testified that he must have seen the treasury warrant mentioned in Exhibit M as he was the one authorized to send those warrants; that he cannot say whether the accused actually received the warrant or not; that he cannot testify whether the accused actually cashed the warrant; and that granting that the accused cashed the warrant, witness cannot positively say what the accused did with the money.

Irineo Buenconsejo testified that the initials which appear in Exhibit K look like the initials of the accused but that he cannot be positive that they are the accused's; that the signatures appearing in Exhibits K-1 to K-18, inclusive, look like the signatures of the accused; that the signature which appears in Exhibit L belongs to the witness and that the blanks in said exhibit were filled up by the accused in the presence of the witness; that the amount of ₱50 mentioned in said Exhibit L was given to the witness to cover his expenses in connection with the investigation which he had to make in Tarlac about alleged abuses committed by the Provincial Commander there. On cross-examination, this witness testified that he cannot testify under what circumstances the money mentioned in Exhibits K, K-1 to K-18 was used; and that the witness knows only about the use made of the money mentioned in Exhibit L which was taken from the so-called "pacification fund."

Patricio Monson, a Philippine Army officer, testified that he acted as aide to the accused from 1939 up to the day of surrender; that he is familiar with the signature and initials of the accused; that the initials which appear in

Exhibits K-19 to K-33, inclusive, look like those of the accused. On cross-examination, this witness testified that he cannot affirm that the initials appearing in the aforementioned exhibits belong to the accused because he did not see the accused initial them.

Emiliano Punzal; testified that Exhibits U to Z are official documents (volumes) on file in the Office of the President, Malacañan. On cross-examination, this witness testified that he did not examine all the papers compiled in Exhibits U to Z before coming to court but only certified the documents which the prosecution wanted; that during the Japanese régime said exhibits were kept in an unlocked vault so that if any of his subordinates had wanted to tamper with them they could have done so; and that after liberation the same exhibits were kept on top of filing cabinets so that any one of his employees could have tampered with them during his (witness) absence.

Edwin Andrews, testifying as a handwriting expert, declared that the signatures in Exhibits K to K-18 are the standard signature of the accused; that the signature which appear in Exhibits U-1 to U-4, X-1 to X-6, X-8 to X-29 are in the hand of the same person who wrote the signatures which appear in Exhibits K to K-18; that Exhibits AA and BB were also submitted to the witness as containing samples of the standard writing and signatures of the accused; that Exhibits CC and DD are in the hand of the same person who wrote the samples of standard writing which appear on Exhibits AA and BB and on Exhibits K to K-18, inclusive. On cross-examination, this witness testified that he did not see the accused write his signature on the documents which he (witness) identified.

Edgar Bond, as examiner of questioned documents of the Division of Investigation, Department of Justice, testified that the signature which appear in Exhibits U-1 to U-5, V-1 to V-3, W-1 to W-50, X-1 to X-32, Y-1 to Y-58 and F" are all in the hand of the same person whose specimens of genuine signatures were submitted to him (witness) for comparison; that the genuine signatures submitted to the witness as standards are those contained in Exhibits J, R-1, K-1 to K-18.

Felipe Pilapil, Jr., a captain in the Philippine Army, testified that during the Japanese occupation he was employed as secret agent for the games and amusement control division of the Department of the Interior; that witness knows Exhibit O and the signature which appears thereon is his; that Exhibit O was submitted to the accused as a report on the shooting of Jose P. Laurel, then Commissioner of the Interior; that the witness was looking for the guilty parties.

Jose D. Ingles testified that the accused had several conferences with President Laurel but that witness cannot

say whether they were in connection with the pacification drive.

Felino Neri testified that during the Japanese occupation he acted as Secretary and Recorder of the Cabinet; that Exhibit T bears what appears to be his signature; that said exhibit was prepared by him; that it is supposed to be the record of the proceedings of the cabinet in that meeting. On cross-examination, this witness testified that he cannot say positively that it was the accused who made the statement recorded in paragraph 4 of the exhibit because when the cabinet was in the point of discussing confidential matters, Laurel used to ask the witness to leave the room. Neither could this witness say that he actually heard the accused utter the remarks attributed to him in the minutes.

On re-direct examination, the witness said that the minutes which he prepared corresponded only to the matters which he actually heard discussed; that matters discussed while he was not in the cabinet room were recorded by the Executive Secretary; that the practice of the witness was to prepare the minutes of the matters which he heard and leave open spaces in between for the Executive Secretary to fill; that the Executive Secretary then ordered the witness to typewrite the minutes which witness signed as complete; and that the Executive Secretary at that time was Pedro Sabido.

Bienvenido Alba, an officer of the United States Army, testified that during the Japanese occupation he received a mimeographed letter from the accused which the Japanese Kempeitai confiscated when they raided his house; that the contents of said letter were more or less like the contents of Exhibit EE. On cross-examination, this witness testified that the signature which appeared in the letter was written that he cannot say positively whose signature it was; that because witness did not know whether the signature appearing in the letter was the genuine signature of the accused witness contacted the latter; that in the office of the accused the witness was told by the accused; "Alba, now is not the right time for effective resistance. If you go to the mountains you will only aid to the thousands that are starving thereat. Why not wait until the American planes are flying over our heads and begin the actual resistance against the enemy? Actual physical encounter now with the enemy will only result in more misery and unhappiness to our people."

Ricardo V. Angeles, an officer in the Philippine Army, testified that after his release from the concentration camp he received a letter from the Bureau of Constabulary but that he cannot tell exactly if the signature therein belonged to the accused; that the letter which he received and its envelope are those marked as Exhibits EE and EE-1, respectively.

Eleuterio de Leon, a major in the Philippine Army, testified that he was a member of the Bureau of Constabulary between October, 1942 and 1944; that Exhibit X-10-a was apparently prepared by him and that the signature at the bottom thereof appears to be his; that he does not remember to whom the exhibit was sent. On cross-examination, this witness testified that he did not refer to guerrillas when he used the words "murder," kidnapping and other crimes" in the document but that he was referring to bandits and other lawless elements.

Count 21.—The only evidence presented by the prosecution on this count is the testimony of Emilio Abello and Exhibit Q. This witness testified that the signature which appears in Exhibit Q belongs to the accused but that he (witness) does not remember whether or not said exhibit passed through his hands at Malacañan; that Exhibit Q is like one of those reports which Mr. Laurel asked the accused to submit from time to time, being summaries of reports from various sources received in the Office of the President, principally on conditions of peace and order in different parts of the Philippines or unusual occurrences; and that when Exhibit Q was prepared the accused was chairman of the advisory committee on peace and order.

Count 22.—The witnesses presented by the prosecution on this count were Emilio Abello, Felino Neri and Felipe Pilapil, Jr.

Emilio Abello testified that on December 22, 1944, Laurel, his cabinet and Generals Roxas, Capinpin and Francisco were ordered by the Supreme War Council in Tokyo to leave Manila and proceed to Baguio; that the party was provided with an armed escort, a portion of which was composed of Japanese MPs who guarded the Ministers and other officers; that in the case of the accused he had an MP assigned to him, who followed him to the Mansion House, and then put his cot just outside his (accused) door; that in the opinion of the witness the MP assigned to the accused was not an aide or orderly but a spy.

Felino Neri testified that he remembers the occasion when Laurel, his cabinet, and a few government officials of cabinet rank went to Baguio; that the accused was in the party of Laurel in Baguio.

Felipe Pilapil, Jr. testified that he went to Baguio on December 22, 1944, as a member of the presidential guards; that sometime in the latter part of December, 1944, witness saw the accused at the Mansion House in Baguio.

DISCUSSION OF THE EVIDENCE

There is no denying the fact that the accused accepted and occupied the different positions enumerated in Count 1. But, we reiterate what we have said in previous cases

decided by us (*People vs. Garcia*, Criminal Case No. 13, and *People vs. Dayrit*, Criminal Case No. 95) that mere acceptance and occupancy of an office under the Japanese régime did not constitute treason. It depends on what the incumbent did inside or outside his office. Which brings us to the question as to whether the accused's acts specified in the twenty-two counts of the information filed against him have been established and constituted treason. The answer is in the negative.

To begin with, no evidence was introduced on Counts 2, 3, 8, 9, 11, 13, 15, and 17.

Counts 5, 6, 7, and 14 have not been substantiated because the witnesses presented by the prosecution on these counts either did not understand what the accused said in his speeches or could not remember what he said or what they remember was not treasonous.

Count 4 has not been established because the accused was not identified as the one who made the broadcast. Neither Count 10 nor Count 16 because it was not proved that the accused was the one who wrote and issued the article. Exhibit N, referred to in Count 10, or the press statement, Exhibit S, referred to in Count 16.

Count 12 has not been established either, because the letter, Exhibit P, mentioned therein was not properly identified. Moreover, it was not proved that it was the accused who wrote, issued or circulated it.

As to Count 18, the memorandum, Exhibit R-1, referred to therein is not treasonous. Besides, only one witness testified on this count. It was Emilio Abello who simply identified the signature of the accused on the memorandum.

Count 19 has, likewise, not been established because the only pertinent evidence presented to substantiate it is Exhibit J which is here copied in full.

"REPUBLIC OF THE PHILIPPINES
MINISTRY OF INTERIOR

BUREAU OF CONSTABULARY
MANILA

December 1, 1943

SIR:

I have the honor to inform that on account of disturbed conditions of peace and order in Nueva Ecija and neighboring provinces, due to the existence of groups bandits and the commission of acts of lawlessness, the following measures were taken by this Office:

1. The 2nd, 3rd, 4th and 7th Companies, General Service Troops consisting of 11 officers and 200 men, were relieved from duty in the City of Manila and sent to Cabanatuan, Nueva Ecija. The strength of the Constabulary in Nueva Ecija will then be 735 men and 36 officers.

2. In addition thereto, I have assigned Lieut. Colonel Fidel N. Cruz with station at Cabanatuan, to take command of the campaign against banditry not only in the Province of Nueva Ecija but also in the

neighboring Provinces of Bulacan, Pampanga, Tarlac and Pangasinan. He is assisted by Capt. Alfonso Arellano, another officer assigned to Cabanatuan is Capt. Silvino Garcia as Assistant Senior Inspector of Nueva Ecija. Both Captains Arellano and Garcia are old Constabulary officers who graduated from the Constabulary Academy, Building No. 1, for officers on November 27, 1943.

Attached is copy of the instructions issued to Lieut. Colonel Fidel N. Cruz.

Very respectfully,

G. B. FRANCISCO
Director

The Honorable
The Minister of the Interior
Manila
1 Encl."

Marciano Roque and Irineo Buenconsejo identified the accused's signature in the letter. The instructions issued to Lt. Col. Cruz mentioned therein were not introduced in evidence.

Attention should be invited to Buenconsejo's testimony (*supra*) that Exhibit J was issued "because there were many bandits who were attacking trains, robbing passengers, specially getting their money, clothing, etc." and that when the witness used the terms "banditry" and "lawlessness" he did not include the guerrilla.

Count 20. This count has not been established also. The pertinent exhibits introduced by the prosecution in support thereof are Exhibits K, K-1 to K-33, T, U. U-1 to U-5, V. V-1 to V-3, W. W-1 to W-50, X, X-1 to X-30, Y, Y-1 to Y-58.

Exhibits K, K-1 to K-33 relate to the disbursements of the pacification fund of the then existing government. Thus, Exhibit K reads:

"BUREAU OF CONSTABULARY
MANILA

OFFICE OF THE DIRECTOR

MONTHLY REPORT OF DISBURSEMENTS FROM PACIFICATION FUND AS OF AUGUST 31, 1943

Balance brought forward from July report ₱4,250.00
Less amounts disbursed during the month:

Date	Receipt No.	S/S Agent No.	Amount
August 3	1	7	₱25.00
August 6	2	4	70.00
August 7	3	GBF	150.00
August 13	4	5	50.00
August 14	5	6	50.00
August 21	6	5	50.00
			<u>₱395.00</u>

Balance unexpended on August 31, 1943 3,855.00

Certified correct:

G. B. FRANCISCO
Director of Constabulary

Another sample, Exhibit K-32, states:

"AFFIDAVIT

I, G. B. Francisco, Director, Bureau of Constabulary, hereby certify under oath that the expenses incurred by me as a result of my official activities as Director of the Bureau of Constabulary for expenses for information, gratuities to under-cover-men, confidential informers, travel and for other contingent expenses in connection with pacification activities during the month of August, 1943 for the amount of one hundred fifty pesos (P150) are true and correct, and the same has been actually incurred by me in connection with the performance of my duties as above stated.

In witness hereof, I have hereunto set my hand this 7th day of September, 1943.

G. B. FRANCISCO
Director

Subscribed and sworn to before me this 7th day of September, 1943, affiant exhibited to me his Residence Certificate No. A-0185862 issued at Manila on January 27, 1943.

(Sgd.) ILLEGIBLE"

Exhibits W-1 to W-50, contained in Exhibit W, which is Vol. II of the files of the Republic of the Philippines, are reports of constabulary officers on the condition of peace and order in the Philippines, sent to the accused, copies of which he furnished the Executive Secretary, Malacañan. Sample of these exhibits chosen at random are here copied in full.

EXHIBIT W-1

"16 BAGUIO 5462 39 11 410S 19. 6. 12
EXECUTIVE OFFICER
CONSTABULARY
MANILA

ROBERT CORTEZ RICH IGOROT BUSINESSMAN SHOT TO DEATH NEAR HIS HOME LUCBAN BAGUIO JUNE TEN SIX AFTERNOON BY THREE PERSONS ARMED WITH REVOLVERS STOP ASSAILANTS FLED MOUNTAINWARD CONSTABULARY AFTER THEM DETAILED REPORT FOLLOWS

MAJOR VERGARA
11 10M 15

COPY FOR JUNE 12 1944
THE HONORABLE
THE EXECUTIVE SECRETARY
MALACAÑAN, MANILA

(Sgd.) G. B. FRANCISCO
Major-General
Chief of Constabulary"

EXHIBIT W-7

"71 LEGASPI 247 57 20 440S 19 7 20

422

EXECUTIVE OFFICE
CONSTABULARY
MANILA

PRIVATE FILOMENO SALVADOR FIRST ALBAY COMPANY
DETACHED AT CATANDUANES WITH JAPANESE GARRISON
CAPTURED WITH RIFLE TWENTY AMMUNITIONS BY TEN
ARMED BANDITS JULY SEVENTEEN IN BATO CATANDUA-
NES WHILE BUYING CAMOTES STOP PRIVATE ALFREDO
DONGAYAL HIS COMPANION ABLE TO ESCAPE STOP JAP-
ANESE AND CONSTABULARY CATANDUANES ON PATROL
SEARCHING BANDITS STOP DETAIL REPORT FOLLOWS

SENIOR INSPECTOR

532s/63

COPY FOR Jul 25 1944

THE HONORABLE
THE EXECUTIVE SECRETARY
MALACANAN, MANILA

JUL 26 1944

(Sgd.) G| B. FRANCISCO
Major-General
Chief of Constabulary"

* 39 +

EXHIBIT W-44

"TELEGRAM

6 G DAET 333 42 6 1030m 19 4 6
234

To:

EXECUTIVE OFFICER
CONSTABULARY
MANILA

APR 141944PM

TO RIKUUN TRANSPORTATION TRUCKS WITH PASSENGERS
SIPOCOTWARD HELD UP KILOMETER TWENTY SEVEN
YESTERNOON PICKLES FIFTY ARMED BANDITS COMMA
PATROLMAN RODOLFO PORTUGAL AND FOUR CIVILIANS
TAKEN PRISONERS CLOTHINGS AND MONEY TAKEN FROM
PASSENGERS COMMA MAILING DETAILED REPORT

CAPT VELASQUEZ

5s 52

COPY FOR:

APR 8- 1944

THE Honorable
The Executive Secretary
Malacañan, Manila

(Sgd.) G. B. FRANCISCO

Major General
Chief of Constabulary"

EXHIBIT W-50

11 NAGA 482 72 15 3-16-44
CONSTABULARY EXECUTIVE OFFICER
MANILA

PATROLMAN LEONCIO GALVANTE FOURTH CAMARINES SUR
COMPANY SHOT BY UNIDENTIFIED PERSON IN NAGA
LAST NIGHT EIGHT THIRTY O'CLOCK STOP VICTIM WAS
IMMEDIATELY BROUGHT TO MILITARY HOSPITAL BUT
DIED THREE O'CLOCK MORNING STOP ASSAILANT WAS
ABLE TO GET RIFLE OUR VICTIM WITH FIVE AMMUNI-
TION STOP ASSAILANT NOT YET IDENTIFIED INVESTI-
GATION CONTINUE STOP FATHER OF VICTIM IS CIRIACO
GALVANTE RESIDING IN TOWN NABUA THIS PROVINCE
STOP FUNERAL THIS AFTERNOON

LAURENTE 8 11S 26

COPY FOR

MAR 18 1944

The Honorable
The Executive Secretary
Malacañan, Manila

(Sgd.) G. B. FRANCISCO
Major General
Chief of Constabulary

Exhibits U-1 to U-5 contained in Exhibit U, which is Vol. 9 of the files of the Republic of the Philippines; Exhibits V-1 to V-3, contained in Exhibit V, which is Vol. 10 of the files of the Republic of the Philippines; Exhibits X-1 to X-30, contained in Exhibit X, which is Vol. 12 of the files of the Republic of the Philippines; and Exhibits Y-1 to Y-58, contained in Exhibit Y, which is Vol. 13 of the files of the Republic of the Philippines, are of the same tenor and nature as Exhibits W-1 to W-50.

All that the accused did with respect to the above-mentioned exhibits was to furnish copies thereof to the Executive Secretary in the ordinary course of official business. We do not see anything treasonous in this. With regard to Exhibit T, suffice it to read the testimony of the witness, Felino Neri (*supra*), to see that it cannot have any probative value against the accused.

It further developed through the testimony of Arsenio Bonifacio that the government money referred to in this count, which was called "pacification fund," was used to help the impoverished veterans of Bataan and for other purposes not connected with the suppression of the resistance movement.

Count 21. The only witness presented by the prosecution on this count was Emilio Abello who merely testified that the signature appearing in Exhibit Q belongs to the accused. Said exhibit is nothing but a summary of reports received by the Office of the President of the Japanese-sponsored Philippine Republic or of items affecting

peace and order published in newspapers and which summary was prepared by the accused at the request of Laurel. Obviously the accused complying with such request.

Finally Count 22. All that was proved in connection with this Count was that the accused, together with the other members of the cabinet and some high ranking government Filipino officials, was taken to Baguio against his will. We fail to see what crime can be imputed to the accused, because of this evidence. Even if the accused went there out of his own volition, unless he did some positive treasonous overt act, no blame can be laid at his door.

The prosecution, however, vehemently contended that the accused conducted campaign against the resistance movement in his capacity as Director of Constabulary. But there is nothing in the oral evidence or in the more than 200 (to be exact 223) documentary exhibits presented by it which shows that the accused had ordered, urged, or advised the constabulary soldiers to fight or liquidate those identified with such movement. He always referred to the suppression of bandits and lawless elements for the establishment of peace and order. And, constabulary officers who testified for the prosecution, declared that the campaign they conducted was directed against those people—not against the guerrillas or similar organizations. In fact, one of said officers, Bienvenido Alba, testified that the accused sympathized with those identified with the resistance movement (Alba's testimony, *supra*). This was probably the reason why the accused was a *persona non grata* to General Yamashita, as testified to by Emilio Abello.

Besides, even if there were some matters in the documentary exhibits bearing the name of the accused which might be considered treasonous, they cannot carry probative value against him because no witness testified having seen him make, or heard him dictate, said documents. Nobody saw him sign them and nobody saw him publish or send them out. It is true that the signature of the accused appearing in said documents have been identified to be genuine by either the expert witness, Edwin Andrews, or the expert witness, Edgar Bond, or by both of them, but such identification does not fulfil the two-witness rule requirement for every overt act in treason cases. Then again, granting that the accused did sign the documents, there being no evidence that he published or sent them out, it would seem that he cannot be held guilty of treason.

In view of all the foregoing, the Court finds that the defense's motion for dismissal is well taken and should therefore be, at it is hereby, sustained. The case against the accused, Guillermo B. Francisco, is dismissed, with costs *de oficio*.

In passing, it may not perhaps be amiss to state here that Special Prosecutors Conchu, De la Cruz, and Vejuncto, who handled this case, fought hard and courageously to substantiate the charges filed against the accused, and of them it should be said that they did their duty, as they saw it, without fear or favor, and to the best of their ability.

So ordered.

Manila, Philippines, August 15, 1946.

SALVADOR ABAD SANTOS

Associate Judge

I concur:

JOSE P. VELUZ

Associate Judge

Associate Judge Eusebio M. Lopez reserved his decision.

REPUBLIC OF THE PHILIPPINES
PEOPLE'S COURT
MANILA

SECOND DIVISION

[CRIMINAL CASE No. 3534. FOR TREASON]

THE PEOPLE OF THE PHILIPPINES, Plaintiff
VERSUS
GUILLERMO B. FRANCISCO, Accused

EUSEBIO M. LOPEZ, *J.*, concurring in the result:

The defendant is accused of treason for having occupied various important posts in the two puppet governments established by the Japanese army during the enemy occupation, having performed the various duties incumbent upon him as holder of the said posts, and for having delivered numerous speeches, allegedly treasonous, on various occasions, also during the occupation. Strictly speaking, the delivery of the said speeches did not constitute a part of his duties as occupant of the various posts he held, and I consider them his private acts, bearing no relation to his official character.

This is a case the importance of which cannot be underestimated. A man, whose history is one of service to his country, stands on trial for the gravest crime in our penal statutes. To decide his case one must stand before the altar of patriotism and before that sacred presence, without passion and without prejudice, view the man in his whole stature, his history, his services, his sacrifices, and

then examine the mass of evidence presented against him in all its details to find out as exactly as we may the impartial answer to the question. Is this man, a distinguished general of his country's army, a man whose loyalty and patriotism have passed the test of blood, is this man a traitor to his country?

This case increases in importance if we consider the fact that it is inseparably linked with other cases of the same nature against other men whose activities played a most important part in the shaping of the fate and destiny of the people during the night of the nation's tragedy and martyrdom.

It is hard to believe that the Filipino leaders, who have been trained all their lives in the democratic ways of life under an atmosphere of freedom could have accepted services under two governments without compulsion and coercion. They were thoroughly familiar with the history of Japan, her mediaeval culture, her political institutions under an absolute emperor-god. To serve under her and to cooperate with her fully and without reserve meant the acceptance of her ideology and service to her ambition of aggrandizement and empire. It meant the overhauling of all the ideals of freedom and liberty they have loved and cherished all their lives. It involved the repudiation of old and deep-rooted loyalties and of all that Christian culture and civilization which the Filipino people acquired through four hundred years of contact with the intellectual achievements and the spiritual progress and social development of the Occident. To the Filipino leaders the situation was most difficult indeed, offering the greatest problem that any group of men ever had to face anywhere and at any time.

The occupation of the Philippines by the Japanese army was preceded by stories of inhuman cruelty practiced by that army among the helpless inhabitants of Korea and China. On January 2, 1942, after the occupation of Manila, the Commander-in-Chief of the Japanese army issued a proclamation warning the Filipinos that "offering resistance or committing hostile acts against the Japanese forces in any manner, will lead the whole Philippines to ashes" and that those who "disturb the minds of the officials and the people" would be punished with death. In that same proclamation the authorities and the people of the Commonwealth were enjoined "to sever their relations with the United States, to obey faithfully all commands of the Japanese army, to cooperate voluntarily with the army in its stationing and activities in the Philippines, and to supply to it all its military needs when demanded." It finally admonished the Filipinos "not to disturb public peace in

any way and not to spread fabulous and wild rumors, for such act would be considered hostile, punishable with death."

This was a terrible proclamation. There was blood and fire and death written in every line, and the leaders knew that the Japanese army meant every word of it. The people were fiercely loyal to the Commonwealth; nobody knew what any of them might do in defense of honor and home; and the leaders trembled for the safety of the people. One thing was uppermost in their mind, the nation must survive. The last-minute instructions of President Quezon were fresh in their minds: "Go ahead. Do the best you can. Make what bargains you have to with these people. Try to keep the Philippines together in one piece. Try to protect the people from Japan's brutality and avarice. You have some tough decisions to make but the job must be done. Do it for the future Philippines." These instructions are clear and precise. The people, helpless in the power of the cruel enemy, must be protected from the cruelties and tragedies of war. The leaders could not oppose force with force, and to show hostility to the enemy would only invite death and destruction. Only one course was left open to them. They must feign cooperation, and they must make their feigned cooperation appear as real as they dared to convince the enemy that they were sincere. This decision made, they surrendered to the enemy and promised obedience to his orders, but not before making their purpose clear and unmistakable in doing so in the following terms: "In compliance with your advice and having in mind the great ideals, the freedom and the happiness of our country, we are ready to obey to the best of our ability and within the means at our disposal the orders issued by the Imperial Japanese Forces for the maintenance of peace and order and the promotion of the well-being of our people under the Japanese Military Administration."

There is nothing disgraceful in the surrender of the Filipino leaders. They had the instructions of President Quezon to do so. It was not expected of them to refuse cooperation with the enemy and block and offer opposition to each and every step that he might take in his war efforts. What was expected of them was to make any bargain they could with the enemy to protect the people. And that was what they did.

A beleaguered army is ordered to surrender when to fight further is inhuman and only means sacrifice of lives for no useful purpose. To die fighting is in the soldier's code of honor, but humanity intervenes between him and death when death to him can only mean sacrifice for no useful

end. On the eve of May 6, 1942, in the Island of Corregidor, General Wainwright found himself in that terrible predicament. Surrounded and helpless before the overwhelming force of the enemy, cut off from all supplies and from all succor, though his men were still willing to fight and die, if necessary, for the country and the flag, General Wainwright, in the name of humanity, surrendered to save the lives of his brave men. That surrender left no stain in his honor as a soldier and when he returned to his country after the war was over, he was received by his grateful people as a victim of his country's unpreparedness and acclaimed as a hero and a martyr.

From the surrender of the Filipino leaders and the subsequent organization of the Philippine Executive Commission under the direction and control of the army of invasion began the unequal but epic struggle between the Filipino leaders in the government, on the one hand, and the Japanese army on the other. In the face of the enemy's stern purpose to secure their fullest cooperation in his war efforts, the Filipino leaders pitted their wits against the iron force of the enemy, trying their utmost to limit their cooperation to matters of peace and order and to the general administration of government, yielding only when to yield was necessary to protect the people, and culminating in the rape of the Philippines, in the complete collapse of the puppet republic and the virtual arrest of its President and the members of his cabinet by the Japanese army, upon the arrival of the forces of liberation, the enemy convinced at last that the cooperation he was receiving from the Filipinos and their leaders was feigned and not real.

There was a difference in the points of view of Americans and Filipino leaders in the prosecution of the war in the Philippines. The Americans were bent on winning the war as soon as possible without counting the cost. The Filipino leaders, who stayed with the people, had their minds concentrated on the best means of saving and protecting the people from the calamities and tragedies of war even to the extent of giving aid and comfort to the enemy, short of waging war against America and their country, and without doing violence to their loyalty to both. This explains the conduct of the accused in his relations with the guerrillas. Americans and Filipinos exiled in America were inducing and urging the people to continue their resistance against the enemy through guerrilla organizations. The Filipino is impulsive and impatient and brave to recklessness, and the guerrilla idea appealed to his ardent imagination; but he and those who were urging

him to continue resistance failed to consider, or refused to consider, the capacity of the enemy for cruelty and wanton destruction until it was too late. The Philippines paid heavily perhaps too heavily, for the ill-advised and irresponsible guerrilla activities of her own sons." Vandalic in his ferocity and brutality, aware that thousands of Filipinos were guerrillas and only a few his friends, the enemy wreaked vengeance on whole communities, and the people suffered as few peoples had suffered in the long course of history. Concentration of inhabitants of whole communities in badly prepared concentration camps where the inmates were deprived of food and water for days and treated worse than beasts; tortures inflicted on thousands of brave men which often resulted in the most cruel deaths; wholesale massacre of innocent beings, men, women and children; whole groups burnt alive, babies thrown into the fire or tossed up and caught in the points of bayonets; prospective mothers hacked across their bosoms; thousands bayoneted and thrown, still alive, in deep wells which became their graves; thousands of homes burnt; towns and cities reduced to ashes—these were the price we paid for American's policy of continued resistance. These were the things the Filipino leaders wanted to prevent by their feigned cooperation. We now knew the result, and the fault was not of their own contriving.

Of course, I will not rob the guerrillas of their full share in the glories of victory. They have won triumphs that the country will never forget. It was their duty to fight, and it was not their fault that the enemy was cruel. Their spirit of sacrifice, their daring, and their gallantry in action, their heroism and fierce patriotism, and the invaluable services they rendered in the prompt subjugation of the enemy during the period of liberation constitute achievements that have definitely placed Filipino courage and bravery second to none in the annals of war.

Before entering into the discussion of the various questions involved in this case, I deem it necessary to find out, in the light of the generally accepted principles of international law; the rights, powers and duties of a military occupant in the enemy territory he has occupied and subjugated by force of arms in the course of a war between independent nations.

In the Hague Conventions of 1907, the High Contracting Parties laid down the laws and customs of war on land "intended to serve as a general rule of conduct for the belligerents in their relations with each other and with the inhabitants." But these laws are by no means comprehensive and, conscious of this fact, the High Contracting Parties, inspired by the desire to diminish the evils of

war, included in the preamble of the Conventions the provision that, "until a more complete code of the rules of war has been issued, the High Contracting Parties deem it expedient to declare that in cases not included in the Regulations adopted by them, the inhabitants and the belligerents remain under the protection and the rule of the principles of international law, as they result from the usages established among civilized peoples, from the laws of humanity, and the dictates of the public conscience."

Once a territory is actually placed under the authority of the hostile army, it is considered occupied and the "authority of the legitimate power, having actually passed into the hands of the occupant, the latter shall take all steps in his power to reestablish and insure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country." (Arts. 42 and 43, The Hague Regulations.)

According to the War Department Rules of Land Warfare of 1940, belligerent occupation presupposes a hostile invasion as a result of which the invader has rendered the invaded government incapable of publicly exercising its authority, and that the invader is in position to substitute and has substituted his own authority for that of the legitimate government of the territory invaded. (Hyde, International Law, Vol. 3, p. 1878.) The inhabitants of the occupied territory change their allegiance, and their relation to their former sovereign is dissolved. (*Leitensdorfer v. Webb*, 20 How. 176). A new relation between them and the government which has acquired their territory is created, though their relations to each other and their rights of property remain undisturbed unless altered by the new master under necessity which the war may create. Their territory, while in possession of the conqueror, is considered part of his territory, as regards all other nations, and belongs to him as exclusively as the territory within his borders, and its relation to him is dependent, not upon the law of nations, but upon his own laws. All former political laws and all other laws in conflict with the political character, institutions and Constitution of the new government are at once displaced. *American Ins. Co. v. Canter* (*American Ins. Co. v. 356 Bales of Cotton*) 1 Pet. 511, 7 U. S. (L. ed.) 242. *United States v. Percheman*, 7 Pet. 51, 8 U. S. (L. ed.) 604; *Leitensdorfer v. Webb*, 20 How. 176, 15 U. S. (L. ed.) 891; *United States v. Le Gardiur de Repentigny*, (*United States v. De Depentigny*, 5 Wall. 211, 18 U. S. (L. ed.) 627. *Fleming v. Page*, 9 How. 603. 13 U. S. (L. ed.) 276; U. S. *vs. Rice*, 4 Wheaton, 246. *Chicago, R. I. & P. R. Co. v.*

McGlinn, 114 U. S. 542, 5 Sup. Ct. Rep. 1005, 29 U. S. (L. ed.) 270.

However, Professor Hyde maintains that "belligerent occupation, being 'essentially provisional,' does not serve to transfer sovereignty over the territory controlled, although the *de jure* sovereign is, under the period of occupancy, deprived of power to exercise its rights as such. This deprivation of power and the relinquishment of it to the occupant are a direct effect of his achievement. The law of nations accepts the result as a fact to be reckoned with, regardless of the merits of his cause." (Hyde, International Law, Second Revised Edition, Vol. 3, pp. 1878-1879.)

The government that a belligerent occupant establishes in the enemy territory he has occupied is called by publicists a government *de facto*. Others call it a government of paramount force because its existence is maintained by active military power within the territory and against the rightful authority of an established and lawful government, and which, while it exists, must necessarily be obeyed in civil matters by private citizens, who, by acts of obedience rendered in submission to such force, do not become responsible as wrongdoers for those acts, though not warranted by the laws of the rightful government. Although such governments are usually administered directly by military authority, they may be administered by civil authority supported more or less directly by military force. (Thorington v. Smith, 8 Wall. 1, 19 U. S. [L. ed.] 361; Peralta vs. Director of Prisons, 42 Off. Gaz., 198.)

Such a government, when in firm possession of any country, is clothed, while it exists, with the same rights, powers and duties, both at home and abroad, as a government *de jure*. (Philips v. Payne, 92 U. S. 130, 23 U. S. L. ed., 649).

The case of the military occupation of Castine, a United States territory, by the British forces, is one which has been cited favorably by our Supreme Court in the cases of Co Kim Cham and Peralta. By the conquest and military occupation of Castine, the enemy acquired that firm possession which enabled him to exercise the fullest rights of sovereignty over the place. The sovereignty of the United States over the territory was, of course, suspended, and the laws of the United States could not longer be rightfully enforced there, or be obligatory upon the inhabitants who remained and submitted to the conquerors. By the surrender, the inhabitants passed under a temporary allegiance to the British government, and were bound by such laws, and such only as it chose to recognize and impose. From the nature of the case, no other laws could be obliga-

tory upon them, for where there is no protection or allegiance or sovereignty, there can be no claim to obedience. (U. S. v. Rice, 4 L. ed., 562, 564; 4 Wheaton, 246.)

The case of the military occupation of Tampico by American forces is another one which has also been favorably cited by our Supreme Court in the above-mentioned cases of Go Kim Chan and Peralta. When Tampico had been captured, and the State of Tamaulipas subjugated, other nations were bound to regard the country, while American possession continued, as the territory of the United States, and to respect it as such. While it was occupied by American troops, they were in an enemy's country, and not in their own; the inhabitants were still foreigners and enemies, and owed to the United States nothing more than the submission and obedience, sometimes called temporary allegiance, which is due from a conquered enemy, when he surrenders to a force which he is unable to resist. (Flaming et al. v. Page, 13 L. ed., 276, p. 281.)

Commanding generals may cause the magistrates and civil officers of the hostile country to take the oath of temporary allegiance or an oath of fidelity to their own victorious government or rules, and they may expel every one who declines to do so. But whether they do so or not, the people and their civil officers owe strict obedience to them as long as they hold sway over the district or country, at the peril of their lives. (Par. 26, Instructions for the Government of Armies of the United States in the Field, General Orders No. 100, Adjutant General's Office; prepared by Francis Lieber, LL. D., and revised by a Board of Officers of the United States Army.)

The powers of a military occupant are absolute and supreme and immediately operate upon the political conditions of the inhabitants. (President McKinley, in his Executive Order to the Secretary of War of May 19, 1898, relating to the occupation of the Philippines by the United States forces.)

"The belligerent occupant may promulgate such new laws and regulations as military necessity demands, and in this class will be included those laws which come into being as a result of military rule; that is, those which establish new crimes and offenses incident to a state of war and are necessary for the control of the country and the protection of the army, for the principal object of the occupant is to provide for the security of the invading army and to contribute to its support and efficiency and the success of its operations. (United States' Rules of Land Warfare, published in 1940, pp. 76, 77.)

"The right of one belligerent to occupy and govern the territory of the enemy while in its military possession,

is one of the incidents of war, and flows directly from the right to conquer. We, therefore, do not look to the Constitution or political institutions of the conqueror, for authority to establish a government for the territory of the enemy in his possession, during its military occupation, nor for the rules by which the powers of such government are regulated and limited. Such authority and such rules are derived directly from the laws of war, as established by the usage of the world and confirmed by the writings of publicists and decisions of courts—in fine, from the law of nations . . . The municipal laws of a conquered territory, or the laws which regulate private rights, continue in force during military occupation, except so far as they are suspended or changed by the acts of the conqueror . . . He, nevertheless, has all the powers of a *de facto* government, and can at his pleasure either change the existing laws or make new ones.” (Hallock, International Law, Vol. 2, p. 444.)

“The government established over an enemy’s territory during the military occupation may exercise all the powers given by the laws of war to the conqueror over the conquered, and is subject to all restrictions which that code imposes. It is of little consequence whether such government be called a military or civil government. Its character is the same and the source of its authority the same. In either case it is a government imposed by the laws of war, and so far as it concerns the inhabitants of such territory or the rest of the world, those laws alone determine the legality of its acts.” (Hallock, International Law, Vol. 2, p. 466.)

“Possessed of exclusive power to enact laws and administer them, the occupant must regard the exercise by the hostile government of the legislative or judicial functions, as well as those of an executive or administrative character, as in defiance of his authority, except as it is undertaken with his sanction or coöperation . . . In fulfilling his obligation to restore and ensure, as far as possible, public order and safety, he is given great latitude with respect to choice of means and mode of procedure. This freedom may be partly due to the circumstance that the occupant is obliged to consider as a principal object the security, support, efficiency and success of his own force in a hostile land inhabited by nationals of the enemy . . . The fact needs to be emphasized that to resist the assertion of authority by the occupant is essentially unlawful. In compelling the inhabitants to give assurance, as by an appropriate oath, that they will desist from acts of resistance, the occupant is merely acquiring pledge of obedience to the law, and one which is wholly unrelated to

and consistent with the allegiance of the pledgors to their own sovereign . . . It may be observed that what the occupant enacts or decrees in the exercise of its legislative power must be deemed to be the law of the place under occupation, notwithstanding the fact that it contradicts and is defiant of the will of the territorial sovereign as exemplified in its then existing legislation . . . The possession by the belligerent occupant of the right to control, maintain or modify the laws that are to obtain within the occupied area is an exclusive one. The territorial sovereign driven therefrom cannot compete with it on an even plane. It must ever be borne in mind that the law is single . . . Thus, if the latter attempts interference, its action is a mere manifestation of belligerent effort to weaken the enemy. It has no bearing upon the legal quality of what the occupant exacts, while it retains control. Thus, if the absent territorial sovereign, through some quasi-legislative decree, forbids its nationals to comply with what the occupant has ordained, obedience to such command within the occupied territory would not safeguard the individual from prosecution by the occupant . . . The right to pass upon the lawfulness of an act must necessarily be the exclusive possession of a single sovereign. Otherwise, as has oftentimes been observed, differing legal consequences might be annexed to the same act, rendering it both lawful and unlawful. The right must also, therefore, in every case, belong to that sovereign or political power which exercises control over the place where the particular act is committed." (Hyde, *International Law*, Second Revised Edition, Vol. 3, pp., 1883-1886.)

It is now a settled rule in this jurisdiction laid down by the Supreme Court in the *Co Kim Cham* case that belligerent occupation does not cede or transfer sovereignty over the territory occupied. But, once belligerent occupation is established, there can be no question that the allegiance of the inhabitants to their lawful sovereign is suspended during the occupation, that all the political laws of the legitimate government are also suspended, and that the inhabitants owe the belligerent occupant the duty of strict obedience.

American courts and American publicists in international law, including American Army authorities on the subject, uphold the principle that, upon the establishment of the military occupation, the relation of the inhabitants to their legitimate government is severed; that the inhabitants owe the belligerent occupant temporary allegiance and strict obedience; that all the political laws and all other laws of the legitimate government that conflict with the aims and purposes of the belligerent occupant are deemed suspended;

that the obligations of the inhabitants to their legitimate sovereign are also deemed suspended; and that the power of the belligerent occupant over the occupied territory and its inhabitants is absolute, subject only to certain limitations established by the recognized principles of international law. The English authorities, on the other hand, denies the theory of temporary allegiance, calling it only constrained obedience to the military occupant, but all of them substantially maintain the principle of suspended allegiance to the *de jure* sovereign. In this jurisdiction, and in view of the special provisions of Art. 114 of the Revised Penal Code which has reference to allegiance to the United States, the American authorities have a compelling force, and I do not hesitate to adhere to their views.

From a careful study of the above principles of international law I may conclude that the belligerent occupant possesses absolute powers to organize and maintain in the occupied territory a government complete in itself and possessed of all the necessary instrumentalities for the proper functioning of an efficient government, subject only to certain limitations established by the law of nations. The ousted sovereign, as long as the occupation lasts, possesses no power whatsoever over the people of the territory occupied which, under international law, is considered a part of the occupant's own territory. The authority of the legitimate government is actually passed into the hands of the occupant and its relations with the inhabitants severed, creating thereby a new relationship between them and the occupant. All the political laws, with the exception of a portion of the treason law, and all other laws of the legitimate sovereign that conflict with the interests of the occupant, are deemed suspended and of no effect during the period of occupation. Within his admitted powers, the occupant alone determines the legality or illegality of his acts or of any act performed by any one under his jurisdiction and control. The inhabitants are considered his subjects and they owe him strict obedience. His laws are generally severe and his treatment of the inhabitants rough and cruel, for he finds himself in the midst of enemies, and the necessities of war compel him to be strict, severe and even cruel.

“* * * What the conqueror does from generosity is in derogation of his strict rights. And whatever may be his motives, the result is apt to be far more beneficial to the conquered than to himself. He is dictating, they accepting terms. Happy their lot that he is thus willing to concede to them many immunities from the hard fortunes of war. From any other than a humanitarian view it is a matter of indifference to him whether or not they are

protected in their rights of life and property; to them it is a matter of vital importance. He is there to enforce his will and is able to do it; they must accept what he offers. By remaining with their property in territory which he alone governs, they impliedly, under the laws of war, accede to his terms; and while they live under his rule and receive the benefits of that law and order which he institutes and maintains, they owe to him that transient duty of obedience which is called 'temporary allegiance.' (Military Government and Martial Law, by William Birkheimer, Major, United States Army.)

If the political laws of the Commonwealth were suspended during enemy occupation, then our treason law was also suspended, it being a political law, and, therefore, could not be violated. Whatever act of giving aid and comfort to the Japanese army was performed, the act was legal then, and it offends basic notions of all civilized legal system to convict any person "ex post facto" for acts which were not illegal when they were committed. Our treason law, however, was only partly suspended. I will discuss this point farther on.

The prosecution is working on the theory that a country is not debarred by any ruling of international law from governing the conduct of its own citizens in foreign countries. The prosecution undoubtedly relies on the recent decision of the Supreme Court of the United States in the case of *Skiriotes vs. State of Florida*, 61 Supreme Court Reporter, 924, 927, where the Court said: "the United States is not debarred by any ruling of international law from governing the conduct of its own citizens upon the high seas or even in foreign countries when the rights of other nations or their nationals are not infringed. With respect to such an exercise of authority, there is no question of international law, but solely of the purpose of the municipal law which establishes the duty of the citizens in relation to his own government."

The act for which *Skiriotes* was prosecuted was not an act of treason committed in enemy territory. It was an act performed in violation of an ordinary penal statute, not political in nature, and of the class which continues in force even during enemy occupation. (*Skiriotes* was convicted for the use of diving equipment in the taking of sponges from the Gulf of Mexico off the coast of Florida in violation of a state statute.) The statement made by the court that "the United States is not debarred by any ruling of international law from governing the conduct of its own citizens upon the high seas or even in foreign countries" is qualified by the concluding clause "when the rights of other nations or their nationals are not infringed."

Of course, there can be no question of international law when the right sought to be exercised does not infringe the rights of other nations or their nationals, but, in the treason case we are now considering and in all other treason cases now pending before the People's Court, the right which the government asserts to punish the accused comes in direct conflict with the law of the Japanese occupant, which considers legal the act sought to be punished, and with the principle of international law recognizing such an act legal, it being within the power of the belligerent occupant to demand and considered a duty of the inhabitants to perform in compliance with the duty of strict obedience they owe their new master. In such a situation, when a clear case of conflict of laws is present, international law rules that the law of the belligerent occupant must prevail.

Those supporting the government in the prosecution of treason cases try to find legal support in the theory that the proposition that nationals residing in territory occupied by the enemy can commit treason against their sovereign during the period of enemy occupation is not a principle of international law but one of municipal law for it is internal in nature, they say, and does not involve in any way the relation of one state to another. This theory is not correct. It is not the legitimate sovereign alone that is interested in that proposition. Its insistence that its treason law continues in force during belligerent occupation directly conflicts with the interest, aims and purposes of the occupant whose principal desire is to obtain voluntary aid and comfort from the inhabitants for the protection and maintenance of his army and in the prosecution of his war efforts to secure ultimate victory. What the legitimate sovereign tries to prevent with the enforcement of his treason law is precisely what the military occupant desires to secure and obtain. In this sense, the above proposition is clearly a question of international law and must be decided by the recognized rule of that law that in the occupied territory there can only be one law and that is the law which the belligerent occupant chooses to recognize and impose.

The generally accepted principle of international law recognizing the legality of the acts done by the occupant belligerent within his admitted powers are addressed principally to the ousted legitimate government, for the occupant cannot be expected to raise the question of the legality of his own acts. If international law declares a certain act of the occupant valid, the ousted government and all the rest of the world are bound by such declaration.

It could not have been the intention of the contracting parties in the Hague Convention to declare legal certain

acts of a belligerent only to allow the other belligerent to declare the same acts illegal. The rules laid down by the Convention are intended to serve as general rules of conduct for the belligerents in their relations with each other and with the inhabitants, and those rules must be applied with equal force to all without favor or prejudice. Otherwise, international law would be no law at all, and the men who have labored so much for its establishment would be left with a sense of utter futility and would lose faith in the ability of mankind to save itself from its own imperfections and cruelties. International law, or any other law, for that matter, must be given that interpretation which gives it life and vigor and growth; not that interpretation which dwarfs, kills and annihilates the spirit which gives it life.

In the presentation of the information against the accused for the crime of treason, the prosecution challenges and denies the authority of international law to govern the conduct of belligerents in their relations with each other and with the inhabitants in an occupied territory as specified in the preamble of the Hague Conventions respecting the laws and customs of war on land. The prosecution challenges and denies the authority of international law which declares that the fact of occupation passes the authority in the occupied territory from the legitimate government to the military occupant, as established in the same preamble of the Hague Conventions and recognized and confirmed by publicists and in judicial decisions. The prosecution challenges and denies the authority of international law declaring that the fact of occupation suspends the political laws of the legitimate government in the occupied territory, and that the inhabitants thereof are bound by such laws, and such only as the military occupant chooses to recognize and impose, principles recognized and confirmed by our own Supreme Court and the Supreme Court of the United States. The prosecution challenges and denies the authority of international law declaring that where there is no protection there can be no claim to obedience, a settled rule in this jurisdiction confirmed and declared by our own Supreme Court and by the Supreme Court of the United States. The prosecution challenges and denies the authority of international law declaring that in a particular place the right to pass upon the lawfulness of an act must necessarily be the exclusive possession of the sovereign which exercises control over the place where the particular act is committed, a principle long recognized by the law of nations as a necessary right to the enjoyment of exclusive jurisdiction a country possesses over the territory it con-

trols. In short, the prosecution, in accusing the defendant, tries to destroy rules of international law recognized by the society of nations as necessary to govern the conduct of belligerents in their relations with each other and with the inhabitants in an occupied territory in the course of a war between independent countries.

The law of nations is the usage of all civilized nations, and is to be tried by the test of general usage. It is founded upon justice and morality and its life depends on mutuality and reciprocity. If it must live and maintain a vigorous and useful existence the countries composing the civilized society of nations must determine with all sincerity to follow its rules and precepts. No nation can afford to ignore those rules and precepts. They constitute the gradual and persistent effort of humanity to form a set of effective rules of conduct to govern the nations in the settlement of their disputes and disagreements in peace and in war with the ultimate purpose to satisfy the urge and the longing of mankind for the formation of a stronger family of nations that would outlaw war and take upon itself the obligation, the duty and the responsibility of creating a more vigorous world order and a world patriotism that would offer a more tender solicitude for the happiness, safety and well-being of the human race.

Good beginnings have been made with the present law of nations, and courts of justice will not be fulfilling their duties and their missions if they apply with hesitancy and doubt the clear and generally accepted principles of international law. This is the more important if we consider that questions of international law, in the absence of treaties, are determined by such aid as can be obtained from judicial decisions, from the works of jurists and commentators and from the acts and usages of civilized nations. Jurists and commentators, however, do not make the law but they are reliable guides to determine what the law really is. The law of nations, by constitutional mandate, forms a part and parcel of the law of this nation, and its application in all proper cases must be made by our courts of appropriate jurisdiction with utmost concern and determination. No other course is open to the courts if they desire to help and to answer, as they must, the promptings of the new conscience of mankind to safeguard the interests of all men and of all nations, large and small, in an atmosphere of larger freedom.

There is nothing in the organization and activities of the two governments established here by the Japanese army of occupation that would place them outside the pale of international law. Both the Philippines Executive Commission and the puppet Republic of the Philippines were

de facto governments patterned after the above rules of international law. Our Supreme Court, in the cases of Go Kim Cham and Peralta, has recognized the legality of those governments, and, in so doing, has adopted the above principles of international law as applicable and binding in this jurisdiction.

The accused served under both the Philippine Executive Commission and the puppet Republic of the Philippines, having held the following important positions:

- (1) Superintendent of Government Employees Training institute;
- (2) First Assistant Director of Constabulary;
- (3) Director of the Bureau of Constabulary;
- (4) Vice-Minister of Interior and Director of the Bureau of Constabulary;
- (5) Vice-Minister of Home Affairs; and
- (6) Chairman, National Advisory Board on Public Security, with rank of Major-General of the Bureau of Constabulary.

All the above posts are civil in nature, being mere instrumentalities of civil government, and had nothing to do with the military operations and were not, in any way, connected with the military organization of the Japanese army. The Government Employees Training Institute was established primarily to discipline the employees of the government along Japanese pattern, and as a medium of Japanese propaganda for the spread of her ideas and ideology among the Filipinos. The other governmental agencies to which the accused was assigned were created principally for the maintenance of peace and order and for the general administration of the governmental affairs of the country for the benefit of the inhabitants and for the protection, maintenance and support of the Japanese army. Under international law, all these activities were indisputably within the power of the Japanese army to perform, either directly by its own personnel or through governmental instrumentalities managed by the inhabitants themselves under the absolute control and direction of the military authorities.

Much emphasis has been placed by the prosecution on the efforts of the constabulary to suppress guerrilla activities on the proposition that guerrillas are patriots, and any act committed to suppress them during the enemy occupation was an act of treason. From the purely Filipino point of view, the argument is strong. It appeals to the virile and patriotic spirit of the people. But we have in this country a government of laws and not of men, and our feelings and sentiments, no matter how noble and patriotic, must give way to the sovereignty of the law. This is the spirit and genius of democratic institutions.

One of the principal obligations of the occupant in the territory he has conquered is to take all steps in his power to reestablish and insure as far as possible, public order and safety, not only for the protection of its army, but principally for the tranquility and well-being of the inhabitants. The Bureau of Constabulary, before and during the Japanese occupation, was a governmental instrumentality created exclusively to maintain peace and order in the country. Both the Philippine Executive Commission and puppet Republic of the Philippines relied on the constabulary for the maintenance of peace and order. True, it tried to suppress guerrilla activities, but the fact must be admitted, and I take judicial notice of it, as matter of contemporary history and common knowledge, that during the enemy occupation there existed in this country bands of roving men who called themselves guerrillas but who, in reality, were lawless elements, under no responsible control, who committed robberies, murders, and rapes, and made the life of the peaceful inhabitants miserable and unbearable. These were the kind of guerrillas the constabulary tried to suppress, not the good ones with whom they were bound by mutual friendship and esteem and by the same love of country, and with whom they joined upon the arrival of the forces of liberation to fight the common enemy. Robberies and banditry must be suppressed, even if committed by guerrillas.

In international law guerrilla bands are considered bandits and not belligerents, and the constabulary, in suppressing them by force or otherwise, acting as mere governmental instrumentality of the Japanese army, acted legally within its legitimate powers.

"The law of nations, apart from the Hague Regulations above noted, denies belligerent qualifications to guerrilla bands. Such forces wage a warfare which is irregular in point of origin and authority, of discipline, of purpose and of procedure. They may be constituted at the back of a single individual; they lack uniforms; they are given to pillage and destruction; they take few prisoners and are hence disposed to show slight quarter. According to the late Dr. Lieber, they may be described as 'self-constituted sets of armed men, in times of war, who form no integrant part of the organized army, do not stand on the regular payroll of the army, or are not paid at all, take up arms and lay them down at intervals, and carry on petty war (guerrilla) chiefly by raids, extortion, destruction, and massacre, and who cannot encumber themselves with many prisoners, and will, therefore, generally give no quarter. They are peculiarly dangerous, because they easily evade pursuit, and by laying down their arms become insidious

enemies; because they cannot otherwise subsist than by rapine, and almost always degenerate into simple robbers or brigands.' " (Hyde, International Law, Second Revised Edition, Vol. 3, p. 1797.)

It is cruel and inhuman to maintain the theory that the treason law of the Commonwealth was in full force and effect during the period of enemy occupation. This theory ignores completely the helplessness of the Filipino people under the absolute control of an inexorable enemy, disposed to have and to take from the people anything and everything that could be of service to him in his war efforts, and determined to eliminate all obstacles that stood in the way between him and final victory. The theory ignores completely the fact that the Filipinos were then living under a military rule that considered non-coöperation of a Filipino a hostile act punishable with death, whose criminal procedure in practice considered suspicion enough ground for conviction, who convicted and punished upon arrest, and imposed no penalty except torture and death of the most horrible and inhuman sort. The theory ignores completely the fact that the Filipinos were victims of a situation they did not create and that the Commonwealth Government was ten thousand miles away, helpless to extend to them the protection they sorely needed.

The safety and well-being of the citizens are the first concern of every democratic government. Governments exist for the people and not the people for the governments. Service to the people is the genius of democracy. The survival of the nation was the one big problem during the enemy occupation. Everything else had to yield before this prime concern. The leaders of the people surrendered and gave aid and comfort to the enemy because they had to and because they knew that only by giving aid and comfort to the enemy could they hope to make the nation survive.

When a people find themselves in such a situation, under alien military law which condemns before it hears, which proceeds without inquiry and renders judgment on mere suspicion and before trial, so that every citizen held his life, liberty and property, and immunities, not under the protection of his own constitution and laws but at the mere will of his conqueror, from whose judgment there was no appeal except to the protection of the Most High, it is just and proper, for reasons of justice and humanity, to allow that people to use their own judgment and discretion in the choice of means for their own survival and protection, independent of their legitimate government. In such a situation proper consideration must be given to the fundamental rights of man to life and liberty, and to the

dignity and worth of the human person. He is not to be considered a mere creature of the State, and his right to life and survival justifies the exercise of his full power of self-defense. In the particular case of the Philippines, it would be adding cruelty to cruelty if, upon its return to power, the legitimate government should hound up those of its citizens who had, in any way, given aid and comfort to the enemy on matters over which according to international law, he had absolute control.

It is my considered opinion that an act of giving aid and comfort to the enemy by the inhabitants of an enemy-occupied territory is not treason, if its performance is rendered in obedience to law or order and its within the proper scope of the powers of the invader over the inhabitants, and not in contravention of the limitations upon his powers fixed by international law. The limitations upon his powers, as fixed by the Hague Conventions of 1907, are as follows:

ART. 44. Any compulsion of the population of occupied territory to furnish information about its own army or about its means of defense is prohibited.

ART. 45. Any pressure on the population of occupied territory to take the oath to the hostile power is prohibited.

ART. 46. Family honor and rights, individual lives and private property, as well as religious convictions and practice, must be respected.

Private property cannot be confiscated.

ART. 47. Pillage is formally prohibited.

ART. 48. If, in the territory occupied, the occupant collects the taxes, dues, and tolls imposed for the benefit of the State, he shall do it, as far as possible, in accordance with the rules in existence and the assessment in force, and will in consequence be bound to defray the expenses of the administration of the occupied territory on the same scale as that by which the legitimate Government was bound.

ART. 49. If, besides the taxes mentioned in the preceding article, the occupant levies other money taxes in the occupied territory, this can only be for military necessities or the administration of such territory.

ART. 50. No general penalty, pecuniary or otherwise, can be inflicted on the population on account of the acts of individuals for which it can not be regarded as jointly and severally responsible.

ART. 51. No contribution shall be collected except under a written order and on the responsibility of a Commander-in-Chief.

This collection shall only take place, as far as possible, in accordance with the rules in existence and the assessment of taxes in force.

For every contribution a receipt shall be given to the contributors.

ART. 52. Neither requisition in kind nor services can be demanded from communes or inhabitants except for the necessities of the army of occupation. They must be in proportion to the resources of the country, and of such a nature as not to involve the population in the obligation of taking part in military operations against their own country.

These requisitions and services shall only be demanded on the authority of the Commander in the locality occupied.

The requisitions in kind shall, as far as possible, be paid for in ready money; if not, a receipt shall be given and the payment of the amount due shall be made as soon as possible.

ART. 53. An army of occupation can only take possession of the cash, funds, and property liable to requisition belonging strictly to the State, depots of arms, means of transport, stores and supplies, and, generally, all movable property of the State which may be used for military operations.

All appliances, whether on land, at sea, or in the air adapted for the transmission of news, or for the transport of persons or things apart from cases governed by maritime law, as well as depots of arms and, generally, all kinds of war material, even though belonging to companies or to private persons, are likewise material which may serve for military individuals, but they must be restored at the conclusion of peace, and indemnities paid for them.

ART. 54. Submarine cables connecting an occupied territory with a neutral territory shall not be seized or destroyed except in the case of absolute necessity. They must likewise be restored and compensation fixed when peace is made.

ART. 55. The occupying State shall be regarded only as administrator and usufructuary of the public buildings, real estate, forests, and agricultural works belonging to the hostile State, and situated in the occupied country. It must protect the capital of these properties, and administer it according to the rules of usufruct.

ART. 56. The property of the communes, that of religious, charitable, and educational institutions, and those of arts and science, even when State property, shall be treated as private property.

All seizure of, and destruction, or intentional damage done to such institutions, to historical monuments, works of art or science is prohibited, and should be made the subject of proceedings.

Over these limitations upon his powers, the invader has no jurisdiction and holds no control. To protect the inhabitants against their violation, international law steps in and takes the inhabitants under its protection. If the invader violates the limitations upon his powers, he commits a war crime. If an inhabitant steps out of the protection of international law and, voluntarily and on his own initiative, performs an act which the enemy, by the above prohibitions, cannot compel him to perform, or gives the enemy help and comfort in the performance of acts prohibited by the Hague Regulations, he is guilty of treason under the treason law of his own country. This is so because sovereignty is not transferred to the military occupant, and the inhabitants continue owing their allegiance to their sovereign. Under this rule the Filipinos during the enemy occupation committed treason when, by positive act and deed, done voluntarily and on their own initiative, they had shown that they had gone over to the side of the enemy by helping him in his military operations, serving him as spies and informers about their country's army or about its means of defense, joining him and helping him

in his acts of pillage and plunder, in the confiscation of private property, or taking oath of allegiance to the Empire of Japan, for these acts are either acts which, by the above limitations, the enemy could not compel the Filipinos to perform or acts of giving him help and comfort in the performance of acts prohibited by the same limitations. Of course, other cases of treason may be cited under the same rule. I mentioned the above only for illustration. In this respect the treason law of the legitimate government cannot be deemed suspended for it operates, under the protection of international law, on acts outside the scope of the occupant's power as fixed by that law.

Speeches alone, no matter how eloquent in praises of Japan's magnanimity and grandeur, are not sufficient to support conviction. Intent to betray, demonstrated by other overt acts of betrayal and disloyalty, must be proved. The traitor's heart of the speaker must be revealed. It must be shown that the speeches gave help and comfort to the enemy in the performance of acts in contravention of the limitations upon his powers imposed by international law. In the great majority of cases, speeches delivered by Filipinos in the days of the occupation, even if the speeches favored Japan, were not sword thrusts directed to the heart of the Commonwealth or of the United States; they were shields to protect the people from the brutality of the enemy.

Before concluding, I desire to state that in the course of this opinion, I have availed myself of facts of common knowledge and contemporary history, of which I have taken judicial notice. They are reliable, poignant and compelling. The veil of time has closed forever on the events of those terrible days, but their memory still lingers and will stay with us to the grave, to pain us always in the realization of the vastness of our loss, and in the remembrance of the dear ones we have lost forever, victims of man's ambition and avarice and of the nation's eternal wranglings for predominance and power.

The acts imputed to the accused, even if they had been proved, were acts within the legitimate powers of the enemy and not in contravention of the limitations upon his powers, and, therefore, not treasonous, and the accused should be acquitted. As this is the effect of the decision of the majority, I concur in the result.

Manila, Philippines, September 26, 1946.

EUSEBIO M. LOPEZ

Associate Judge

ESTADOS UNIDOS DE AMÉRICA
MANCOMUNIDAD DE FILIPINAS

TRIBUNAL DEL PUEBLO

SALA III

[CAUSA CRIMINAL No. 122]

EL PUEBLO DE FILIPINAS, Querellante

CONTRA

ELEUTERIO TENIDO, Acusado

SENTENCIA

Eleuterio Tenido está acusado del delito de traición, consistente, según la querella, en (1) que, siendo miembro de la sociedad militar "Makapili" y espía de los japoneses y con el intento de ayudar y socorrer al enemigo, sostuvo con otros makapilis una refriega contra las fuerzas de la guerrilla, en o hacia los días 24 y 25 de enero, 1945; y (2) que, en diciembre de 1944, se afilió a la Makapili y sirvió a la misma y se unió al enemigo, cuando éste evacuó el pueblo y se replegó a la montaña, donde permaneció hasta que fué capturado por el ejército libertador.

De estos dos cargos, la acusación tan sólo trató de probar: (a) que el acusado era miembro de dicha asociación militar y sirvió a la misma; y (b) que, en la tarde del 25 de enero, 1945, tomó parte en un combate empeñado entre makapilis y guerrilleros en el barrio de Carmen, Silang, Cavite. Así, Esteban Sidamon declaró que ha visto a Tenido hacer ejercicios militares con soldados makapilis, trajeado de khaki y portando un rifle; que una vez el acusado estuvo en la casa de Arsenio Batitis, jefe de los sakdalistas de Sta. Rosa, situada en el barrio de Aplaya de dicho municipio; que, a eso de las 4 p. m. del día 24 de enero de 1945, un automóvil, en el cual iban Tenido y otros seis compañeros suyos, entre ellos Arsenio Batitis, José Almodovar y el japonés Mikawa, todos armados de rifles, se detuvo en el barrio de Balibago, y después que el acusado se hubo informado de la presencia de guerrilleros en aquellos parajes, el vehículo continuó su camino hacia el barrio de Sto. Domingo; que, como a las 6 de aquella tarde, otro grupo de 60 soldados makapilis pasó a pie por el mismo sitio y tomó la misma dirección; que, deseando comunicar al capitán José Alinsod, entonces refugiado en Carmen, el movimiento de aquella tropa, Sidamon se hizo acompañar de Ambrosio Billares, y ambos siguieron a los makapilis hasta un punto distante de Sto. Domingo, medio kilómetro, desde

donde se separaron, tomando Sidamon el camino del Carmen y retirándose Billares a Balibago; que desde el amanecer del día siguiente, 25 de enero, hasta la 1 p. m., se trabó un encuentro entre guerrilleros y makapilis en el barrio de Sto. Domingo, pero habiéndose estos últimos replegado al barrio de Carmen, fueron batidos por las fuerzas mandadas por el capitán Alinsod, y que durante esta última refriega, que duró hasta la puesta del sol, Sidamon, parapetado detrás de un árbol, vió al acusado entre los combatientes participar en ella, llevando su fusil y avanzando cerca del sitio donde aquél estaba escondido.

Ambrosio Billares, Faustino Lazaga y Delfín Sayaw testificaron asimismo que, en dicha tarde del día 24 de enero, vieron el vehículo ocupado por el acusado y sus compañeros Batitis, Almodovar y otros, detenerse en Balibago y luego continuar la carrera hacia Sto. Domingo, en las circunstancias expuestas por Sidamon; y que nada sabían de lo que ocurrió después en Sto. Domingo y en Carmen. Billares corroboró a Sidamon, diciendo que en efecto, fué con éste, en seguimiento de los makapilis, pero, que antes de llegar a Sto. Domingo, dejó a su compañero y regresó a Balibago. Por último, Delfín Sayaw declaró que Tenido frecuentaba la compañía de Arsenio Batitis, y que, antes de la guerra, trabajó por el triunfo electoral de un tal Celso Cartesiano, sakdalista, aspirante a alcalde de Sta. Rosa.

El acusado, por su parte, contiene que nunca fué sakdalista; que siendo natural de Biñan, Laguna, pasó a Sta. Rosa, por haberse casado con una mujer de este pueblo, el año de 1937, o sea, dos años después del alzamiento sakdalista de Sta. Rosa; que tuvo frecuentes tratos con Arsenio Batitis, debido a que éste cuidaba de sus gallos de pelea y le suministraba, además, leña y caña para su negocio de nipa; que es cierto que, antes de la guerra, él patrocinó la candidatura de Celso Cartesiano; pero nunca fué miembro de la Makapili, ni hizo ejercicios militares en toda su vida, ni estuvo en Balibago en la referida tarde del 24 de enero, y mucho menos, portando un rifle, pues no sabe cómo disparar un arma de fuego; que es absolutamente falso que haya tomado parte en la refriega de Carmen, pues en toda su vida nunca llegó a dicho barrio, ni conoce su topografía; que en dicho día 24 de enero, residía en la población de Sta. Rosa y como persistiese el rumor de que los guerrilleros iban a tomar el pueblo, se trasladó con su familia a la casa de su suegra, en el barrio de Sinarhan, permaneciendo allí hasta el 5 de febrero, 1945, en que los soldados del capitán Alinsod ocuparon el municipio; y que habiendo vuelto al pueblo, nunca fué sometido a indagatoria, ni por la Counter Intelligence Corps, ni por los

agentes del capitán Alisod, que investigaron a todo vecino de Sta. Rosa sospechoso de japonofilo; con todo, el 29 de diciembre, 1945, fué arrestado en virtud de la querella de autos. Preguntado sobre si existía algún motivo que indujera a Esteban Sidamon a declarar contra él, el acusado contestó así:

"During the months from March to May, 1945, I was making considerable amount of money and during that period of time Esteban Sidamon used to ask money from me and I gave him whenever he came, but later on, my business began to be dull and every time Esteban Sidamon came to ask for money I had to refuse because of the slowness of the business, and since September he stopped seeing me to ask for money."

Y aclarando por qué Ambrosio Billares y Faustino Lazaga testificaron contra él, el acusado dijo:

"They were the ones who constructed the house of my neighbor and they learned that I would have a house constructed, so they offered me to construct it, but I did not employ them."

Y referente al testigo de cargo Delfín Sayaw, Tenido dijo:

"His wife was a banana merchant and she used to load her merchandise in our truck, but one day she wanted me to fetch the bananas she had in Balibago, but I refused to do it because it was already late. Since then she did not ride in my truck any more."

Al apreciar las pruebas de cargo, lo primero que salta a la vista es el detalle de que, el sólo y único hecho que se ha tratado de demostrar, mediante el testimonio de dos y más testigos fué el haber pasado el acusado en automóvil por Balibago, en el referido día de autos, en compañía de otros makapilis, todos armados de rifles. Sobre este hecho, declararon Sidamon, Billares, Lazaga y Sayaw. Tal cantidad de prueba, sin embargo, no se aportó para probar su alegada participación en la refriega de Carmen y en los ejercicios y maniobras de aprendizaje militar, pues sólo Sidamon habló de estos hechos.

Parece que la acusación infiere del mero hecho de frecuentar la casa y compañía de Arsenio Batitis, la conclusión de que el acusado era miembro de la asociación Makapili. Tendría esta conclusión algún valor incriminatorio, si no lo hubiera aclarado el acusado, al efecto de que sus relaciones con el jefe sakdalista obedían a que éste era su proveedor de caña y leña, y tenía además el cuidado de sus gallos de pelea. Sobre esta explicación, no desvirtuada por la acusación, está la circunstancia de que, de acuerdo con el propio Exhíbito A-1 del Gobierno,

(1) "All members of the Association shall register in a register book to be kept by such officer of the Association as may be designated by the Executive General" (Chapter II, By-laws of the Makapili);

y el mismo testigo de cargo Ruben Caro, que actuó como único secretario de la sociedad en Sta. Rosa, desde su inicio en diciembre, 1944, hasta su liquidación, a fines de enero, 1945, testificó que nunca se registró o se alistó el acusado como makapili, nunca hizo acto de presencia en las oficinas de la sociedad, y su nombre nunca figuró tanto en el libro-registro de los makapilis como en el de los Scout Battalion.

Descartada, pues, la imputación de makapili, veamos hasta qué punto es meritorio el cargo de que, el acusado tomó parte en un encuentro trabado en Carmen entre makapilis y guerrilleros en dicho día 25 de enero. Se ha hecho hincapié en la circunstancia de que, en la tarde del día anterior fué visto el acusado con otros makapilis, pasar por Balibago en automóvil y dirigirse hacia Sto. Domingo. No existe prueba alguna de que los pasajeros de dicho automóvil hayan participado en el combate de Sto. Domingo ocurrido en la mañana del día 25. Pudieron haber vuelto a Sta. Rosa en la noche del día 24. Solo Estaban Sidamon vió al acusado tomar parte en la alegada refriega de Carmen. Veamos si pueden merecer crédito este testimonio y el de los otros testigos de cargo.

Hay estos hechos:

1. Estaban Sidamon y Ambrosio Billares fueron testigos de cargo en la causa No. 144 de este Tribunal, Pueblo *contra* Ángel Beato, y entonces dijeron que en la mencionada tarde de autos, una columna de 20 soldados japoneses y 50 makapilis, pasó por Balibago y se dirigió a Sto. Domingo; y al día siguiente, desde el amanecer hasta las 11 a. m., sostuvo en Sto. Domingo una acción con una partida de guerrilleros. No mencionaron entonces automóvil alguno, ni nombraron a Eleuterio Tenido, a pesar de que fueron interrogados sobre los nombres de todos los que fueron vistos por ellos pasar por dicho sitio. Tampoco mencionaron el combate de Carmen.

2. En la causa de Ángel Beato, Ambrosio Billares nombró a Arsenio Batitis, José Almodovar, Mikawa y Beato entre los makapilis que iban a pie, lo que dió claramente a entender, que no había automóvil alguno de por medio. Por el contrario, si hubo vehículo entonces, no se comprende por qué este testigo dejó de mencionar a Tenido en aquella causa, y en cambio, nombró a Batitis y sus citados cuatro compañeros, cuando *todos ellos* iban en el mismo coche, según declara en la presente.

Además, en la causa de Beato, Ambrosio Billares no dijo que había seguido a la referida columna, desde su barrio de Balibago hasta las cercanías de Sto. Domingo, mientras que, en el caso de autos, asegura que estuvo siguiéndola.

3. Mientras Esteban Sidamon dijo que no vió el mencionado automóvil parado en el barrio de Sto. Domingo, en la referida tarde, pues él y Billares sólo llegaron a un sitio distante medio kilómetro del barrio (folios 19, 30, Radogon), en cambio, su compañero asegura que llegaron a dicho barrio y que él vió el vehículo parado en el camino (fol. 25, Manas).

4. Mientras Esteban Sidamon dijo que en dicho automóvil, al pasar por Balibago, iban siete pasajeros, entre ellos el japonés Mikawa, y lo manejaba el chófer José Almodovar (fol. 6, Ragodon), en cambio Ambrosio Billares asegura que el vehículo llevaba cuatro,

todos filipinos, y lo guiaba un chófer llamado Tenorio (fol. 2, Manas).

5. Llamada a vista esta causa el 9 de mayo último, el fiscal Don José P. de la Cruz anunció que sus testigos serían cuatro a saber: Esteban Sidamon, Ambrosio Billares, Exequiel Declaro y Pablo Cabungcal. Entonces no fueron mencionados Faustino Lazaga y Delfín Sayaw. Después que hubieron declarado Sidamon y Billares, en los días 11 y 27 de mayo, el Fiscal, el 29 de mayo, presentó a Lazaga y Sayaw, con la oposición de la defensa. Dadas las incongruencias y contradicciones de aquéllos y la inopinada presentación de Lazaga y Sayaw, hay razones para creer que fueron presentados estos últimos para reforzar y mejorar el testimonio de Sidamon y Billares.

6. Según Esteban Sidamon, él informó al capitán José Alinsod, en Carmen, del movimiento de la tropa enemiga, por lo que el capitán reunió y preparó su compañía, armándola de ametralladoras, rifles y revólveres (folios 20 y 21, Ragodon); y como los makapilis se vieran obligados a replegarse a Carmen, hacia el mediodía del 25 de enero, Alinsod sostuvo una acción con ellos, que duró hasta la puesta del sol. El teniente Oscar C. Gonzales del Ejército Filipino, desmiente esta declaración, diciendo que, en dicha fecha, él era el "executive officer" de Alinsod; que entonces, la unidad militar de Alinsod no estaba aún organizada; que él y Alinsod se hallaban escondidos en el barrio de Pook, Silang, Cavite, donde tenían cinco hombres y estaban solamente provistos de dos carabinas y cuatro revólveres; que en dicho día 25 de enero, Alinsod no estuvo en el barrio de Carmen, sino en Pook, ni tomó parte en ninguna refriega de aquel día, y que los que batieron a los makapilis fueron las fuerzas llamadas Layang-layang Unit y Kidlat Unit, bajo el mando combinado del comandante Borbón y el Alcalde Tiangson de Silang.

Esta versión del teniente Gonzales está confirmada por las admisiones de Sidamon, hechas en repreguntas, a saber: que el citado Teniente era, en efecto, uno de los oficiales de la compañía del capitán Alinsod y que éste comenzó a organizar sus fuerzas, después que hubo regresado a Sta. Rosa el 5 de febrero, 1945, y solo desde entonces adquirieron como unos 40 fusiles de soldados americanos, que venían de Nasugbu, permutándolos con whisky (págs. 35-36, Ragodon). Cómo podían librar combate el 25 de enero, si solo después del 5 de febrero se organizaron y se proveyeron de armas?

7. Esteban Sidamon declaró que la acción de Carmen en la que participó el acusado tuvo lugar desde la 1 p. m. hasta la puesta del sol del día 25 (fol. 23, Ragodon). Ambrosio Billares, por su parte, dijo que vio la columna de los makapilis, de regreso a la población de Sta. Rosa y viniendo de Sto. Domingo, pasar por Balibago las 3 del mismo día 25 (fol. 26, Manas). De hecho, cuando Sidamon y Billares siguieron a aquel grupo, en la tarde anterior, les costaron cinco horas de caminata de 6 a 11 p. m., solo para recorrer el trecho entre Balibago y Sto. Domingo (fol. 26, Manas). Si hubiera habido, pues, algún encuentro en Carmen (el cual duró, según Sidamon, hasta la puesta del sol del día 25), hubiera sido físicamente imposible para los makapilis llegar a Balibago las 3 del mismo día.

Considerando los hechos, detalles y circunstancias arriba expresados y después de apreciar todas las pruebas en conjunto, la conciencia judicial no puede quedar tranquila y sosegada respecto a la certidumbre de la culpabilidad. No existe aquella certeza moral que engendra paz y fortaleza en el alma del juez, y le resguarda, en lo futuro, de todo remordimiento.

Por lo tanto, concediendo al acusado Eleuterio Tenido los beneficios de la duda racional, el Tribunal le absuelve de la acusación, con las costas de oficio.

Manila, Filipinas, 14 de junio de 1946.

JOSÉ S. BAUTISTA

Juez

Conformes:

ARSENIO P. DIZON

Juez

TIBURCIO TANCINCO

Juez

ESTADOS UNIDOS DE AMÉRICA
MANCOMUNIDAD DE FILIPINAS

TRIBUNAL DEL PUEBLO
MANILA

CUARTA DIVISIÓN

[CAUSA CRIMINAL No. 26. POR TRAICIÓN]

EL PUEBLO DE FILIPINAS, Querellante

CONTRA

MARIANO ACOBA, Acusado

DECISIÓN

Se ha presentado una querella contra el acusado Mariano Acoba imputándole la comisión del delito de traición, definido y castigado en el artículo 114 del Código Penal Revisado, tal como ha sido enmendado por la Orden Ejecutiva No. 44 de fecha 31 de mayo de 1945. Y, la mencionada querella contiene las alegaciones siguientes:

"Sometime during the first week of December, 1944, in the municipality of San Jose, Province of Nueva Ecija, Philippines, within the jurisdiction of this Court, said accused not being a foreigner but a Filipino citizen, owing allegiance to the United States of America and the Commonwealth of the Philippines, in violation of said allegiance, did then and there wilfully, unlawfully, feloniously, and treasonably adhere to the Empire of Japan and the Imperial Japanese Forces in the Philippines, with which the United States and the Commonwealth of the Philippines were then at war, giving said enemies, the Empire of Japan and the Imperial Japanese Forces in the Philippines, aid and comfort, in the following manner, to wit:

"For the purpose of giving and with intent to give aid and comfort to the Empire of Japan and her military forces, said accused, a member of the United Nippon, a military organization constituted

for the purpose of assisting the Imperial Japanese Army in its military operations, did accompany, lead, and guide a detachment of some twenty Japanese soldiers who were looking for guerrillas and persons who have joined the resistance movement against the Japanese and their sympathizers, and did point out to said Japanese soldiers Manuel Sevilla, Guillermo Hilario, Eusebio Morales, Primitivo Morales, Maximo Morales, Zacarias Sarinas, and Silvestre Ignacio as members of the guerrillas; that said Manuel Sevilla was immediately caught and put to death by the Japanese soldiers and the remaining six persons were tied and severely beaten and thereafter taken by said accused and the Japanese soldiers to the Japanese garrison in that locality and kept there imprisoned for two weeks, during which time they were tortured and fed only once a day."

El acusado, que se declaró no culpable, ha admitido, voluntariamente y en Corte abierta, que nació en el municipio de Dingrás, Ilocos Norte, de padres filipinos; que es ciudadano filipino y nunca dejó de serlo. También admitió que la marca digital que aparece al pie del Exhibit A es de él.

Además de estas admisiones las pruebas de la acusación demuestran que no obstante haber nacido en el municipio de Dingrás, el acusado, posteriormente, cambió de residencia y ha estado viviendo, durante los 10 últimos años, en el municipio de San José, Provincia de Nueva Écija. En o hacia el año 1942 se hizo miembro de la organización denominada "Ganap," y ha demostrado en varias ocasiones su simpatía y adhesión a los soldados japoneses en Filipinas. Su asociación con los mencionados soldados era tal que, públicamente vestía el uniforme y llevaba la gorra que los mismos usan; frecuentaba y hasta dormía en el cuartel de los soldados japoneses en el municipio de San José; y acompañaba y guiaba a los mismos cuando hacían sus patrullas en los barrios e inmediaciones del citado municipio, estando siempre vestido con el consabido uniforme. Para patentizar más a los ojos del público y sobretodo de sus aliados japoneses, que hacía causa común con éstos, el acusado, el año 1943, se unió con otros miembros de la referida organización intitulada "Ganap" y establecieron su propio cuartel en la calle Bonifacio del mismo municipio de San José, a poca distancia del cuartel de los soldados japoneses. Dicho acusado, al igual que sus compañeros en el indicado cuartel, solía estar de centinela frente del mismo, luciendo en todas las veces el uniforme y la gorra de referencia y armado con un fusil. Y, cuando actuaba como tal centinela y para asemejarse con los soldados japoneses, en circunstancias análogas, exigía que le saludaran los viandantes o los que acertaban pasar frente del cuartel so pena de ser castigados o maltratados, con más o menos severidad.

Las mismas pruebas también demuestran que en la mañana del 1.º de diciembre de 1944, llegó en el barrio de

Disol, municipio de San José, Provincia de Nueva Écija, una patrulla compuesta de unos veinticinco soldados japoneses armados, en compañía de dos filipinos. Uno de estos era el acusado Mariano Acoba que servía de guía a dicha patrulla y estaba, como en ocasiones anteriores, con la vestimenta de los soldados del ejército japoneses. Los miembros de la indicada patrulla se dispersaron inmediatamente en pequeños grupos para buscar y aprehender a los guerrilleros o supuestos guerrilleros y a los que simpatizaban o prestaban ayuda a los mismos. Cuatro soldados de los que componían dicha patrulla, acompañados del acusado, fueron a la casa de Zacarías Sarena, hicieron bajar a éste y, por haber sido indicado por dicho acusado que era uno de los que facilitaban alimento a los guerrilleros, le aprehendieron y le condujeron debajo de un árbol de manga, que se encuentra en el mismo barrio. Otros cinco soldados japoneses pusieron bajo arresto a Guillermo Hilario, señalado igualmente por el acusado como uno de los que también proporcionaban comida a los guerrilleros, llevándole después debajo del mismo árbol de manga. Otro grupo de cinco soldados japoneses, en compañía del mismo acusado, aprehendió y condujo a Eusebio Morales debajo del árbol de manga de referencia, por haber informado dicho acusado a los referidos soldados que también daba comida a los guerrilleros. Por indicación del mismo acusado, Máximo Morales fué arrestado y llevado por dos soldados japoneses debajo del citado árbol de manga por suponersele que también proporcionaba comida y ayuda a los guerrilleros. Y, por último, el acusado al ver a Primitivo Morales debajo del mencionado árbol de manga, donde fué conducido por tres soldados japoneses, informó a estos que también facilitaba alimento a los guerrilleros, y por la indicada información, Primitivo fué detenido, al igual que Zacarías Sarenas, Guillermo Hilario, Eusebio Morales y Máximo Morales.

Estos cinco arrestados han sido detenidos debajo del indicado árbol de manga con otros que también habían sido aprehendidos y detenidos, y, eran Manuel Sevilla, Miguel Somera, Silvestre Ignacio, Saturnino Flores y cuatro viejos cuyos nombres no han sido mencionados por ninguno de los testigos. El número de los detenidos llegaba a 13 en total. Y allí, debajo del árbol de manga, fueron atadas las manos de cada uno de los mismos por los soldados japoneses, en presencia del acusado Mariano Acoba. Al cabo de algunos momentos, cinco de los referidos soldados sacaron del grupo a Manuel Sevilla y le llevaron a otro sitio por haberles informado el acusado de que aquel tenía un hermano guerrillero, pero apenas se habían alejado se oyeron cuatro disparos. Después de breves instantes vol-

vieron los cinco soldados japoneses, pero ya no venía con ellos Manuel Sevilla, a quien ya no se le ha visto desde entonces. De los doce detenidos que se han quedado debajo del árbol de manga, les dejaron en el mismo lugar a los cuatro viejos por su edad y por la razón además de que el acusado no había formulado ningún cargo contra cualquiera de ellos. Pero los ocho restantes, o sean Zacarías Sarenas, Guillermo Hilario, Eusebio Morales, Máximo Morales, Primitivo Morales, Miguel Somera, Silvestre Ignacio y Saturnino Flores, fueron llevados al sitio donde se había quemado la casa del guerrillero Raymundo Sarga y allí les hicieron cargar las cosas que se salvaron de la citada casa que fué incendiada por los japoneses. Se encaminaron después dichos detenidos por orden de sus aprehensores, seguidos por éstos y por el acusado, en dirección al cuartel de los soldados japoneses en la población del municipio de San José donde llegaron en la tarde del mismo día. Los referidos ocho arrestados estuvieron en el mencionado cuartel de los soldados japoneses durante 14 días consecutivos, desde el 1.º de diciembre de 1944, teniendo todos las manos atadas día y noche durante dicho período de tiempo y sin darles comida en los dos primeros días. Zacarías Sarenas, Guillermo Hilario, Eusebio Morales, Máximo Morales y Primitivo Morales han sido investigados en el mismo cuartel inquiriéndoles si eran guerrilleros o si habían facilitado comida a los mismos. Negaron naturalmente, aunque algunos de ellos habían facilitado, real y efectivamente, comida y ayudaban a algunos de los que ofrecían resistencia a los invasores japoneses. Fueron además sometidos a torturas Zacarías Sarenas, Eusebio Morales y Primitivo Morales, pues a Zacarías le colgaron estando suspendido en aire mientras le investigaban y ha sido maltratado en presencia del acusado; Eusebio también fué colgado, y después de descolgarle y mientras se hallaba tendido en el suelo, debil y sin fuerza, los soldados japoneses le dieron puntapiés y le golpearon en varias partes del cuerpo con una pieza de madera de 3 pulgadas de grosor por 3 pies de largo, en presencia del mismo acusado; y Primitivo también fué colgado cuando dijo, durante la investigación, que no había facilitado comida a los guerrilleros, y mientras estaba colgado le pegaron los soldados japoneses con una pieza de madera de forma rectangular de 2 pies de largo, también en presencia del mismo acusado. Durante dicha investigación y mientras se les sometía a Zacarías, Eusebio y Primitivo a crueles y severas torturas, el acusado Mariano Acoba no solamente estaba presente sino que hablaba con los soldados japoneses que maltrataban a aquellos, y a veces tomaba parte en la investigación. Tales son los hechos que han quedado plenamente establecidos por

las declaraciones de los testigos Zacarías Sarenas, Guillermo Hilario, Eusebio Morales, Máximo Morales y Primitivo Morales.

La defensa del acusado consiste en una coartada. Se ha tratado de probar por medio del testimonio del acusado y del testigo Dioscoro San Juan que entre 7 y 8 de la mañana del 1.º de diciembre de 1944 el acusado estaba con Dioscoro San Juan y un tal Mamerto Venturina en el barrio de Macanyawed, municipio de Lupao, Provincia de Nueva Écija, que dista del barrio de Disol unos 14 kilómetros, poco más o menos. Pero somos de opinión que la aseveración del acusado y la de su testigo Dioscoro San Juan no pueden prevalecer contra el testimonio claro, positivo y categórico de los testigos de la acusación Zacarías Sarenas, Guillermo Hilario, Eusebio Morales, Máximo Morales y Primitivo Morales que fueron arrestados y detenidos, uno tras otro, en el mencionado barrio de Disol y en la mañana del 1.º de diciembre de 1944 por los miembros de una patrulla compuesta de 25 soldados japoneses, armados, acompañados y guiados por el acusado Mariano Acoba y por indicación de este. Dichos cinco testigos declararon de una manera inequívoca que han visto al acusado en compañía de los soldados japoneses cuando estos, en grupos separados, les arrestaron en el mencionado barrio de Disol, en la mañana de autos; que también le han visto debajo del árbol de manga donde fueron congregados y cuando los soldados japoneses amarraban sus respectivas manos; que mientras se dirigían desde dicho árbol de manga al sitio donde los soldados japoneses habían incendiado la casa del guerrillero Raymundo Sarga, también veían al acusado que les seguía, juntamente con los referidos soldados; que desde dicho sitio hasta que llegaron al cuartel de los japoneses en la población del municipio de San José en la tarde del día de referencia veían a dicho acusado que estaba con los soldados japoneses que les conducían; y continuaron teniéndole a la vista a dicho acusado en el mencionado cuartel y en la indicada fecha. Las pruebas sobre la presencia del acusado en la mañana y lugar del suceso en compañía de los soldados japoneses que aprehendieron y detuvieron, entre otros, a Zacarías Sarenas, Guillermo Hilario, Eusebio Morales, Máximo Morales y Primitivo Morales y su intervención directa y eficaz en la aprehensión de estos son tan abundantes y convincentes que a duras penas puede prosperar la alegada coartada de dicho acusado. La prueba oral que tiende a establecer una coartada se fabrica con tanta facilidad y ordinariamente no se le tiene en cuenta. (*Pueblo contra Badilla*, 48 Jur. Fil., 773.) Y, cuando los testigos de la acusación han identificado al acusado de una manera clara y explícita

la defensa de coartada no merece consideración alguna. (E. U. *contra* Hudieres, 27 Jur. Fil., 50 y Pueblo *contra* Cabantug, 49 Jur. Fil., 506).

Para desacreditar el testimonio de los referidos testigos de la acusación, el acusado declaró que a mediados de diciembre de 1944 los hermanos Eusebio Morales y Máximo Morales alquilaron su calesa pero no pudieron pagarle el alquiler correspondiente, y cuando más tarde el acusado les cobraba el citado alquiler, Eusebio, que estaba entonces con Máximo, le maltrató; que Guillermo Hilario, Zacarías Sarenas y Primitivo Morales declararon en contra de él (acusado), porque Guillermo estaba con los hermanos Eusebio y Máximo cuando tuvo lugar el incidente entre estos y dicho acusado sobre el alquiler de referencia; Zacarías por ser amigo de dichos hermanos; y Primitivo por ser primo de los mismos. Pero esta declaración singular del acusado ha sido enfáticamente negada por Eusebio y Máximo. Además, a mediados de diciembre de 1944, Eusebio Morales y Máximo Morales estaban detenidos en el cuartel de los soldados japoneses en el municipio de San José. Y difícilmente puede ser cierto lo que sobre este respecto ha declarado el acusado porque nos resistimos a creer que por un motivo tan baladí, dichos testigos tuvieron que emprender un viaje largo y molesto de la Provincia de Nueva Écija a esta capital, dejando sus ocupaciones, para jurar en falso y a fin de imputar al acusado la comisión de un delito tan grave y detestable, como es el de traición. A parte de que, si es verdad la versión del acusado, el que debe resentirse y darse por ofendido es precisamente el mismo acusado y no los hermanos Eusebio Morales y Máximo Morales, ni su pariente Primitivo Morales y menos sus amigos Guillermo Hilario y Zacarías Sarenas, sencillamente porque el acusado es el que no recibió y fué privado injustamente de lo que le corresponde por el alquiler de su calesa y porque el acusado es el que fué maltratado por Eusebio en presencia de Máximo, sin motivo justificado.

Para reforzar la defensa de coartada del acusado, Juan Gaballo y Ricardo Galang declararon que ellos y el Teniente Rey fueron al barrio de Disol en la mañana del 1.º de diciembre de 1944 y en dicho barrio han sido puestos bajo arresto y detenidos por una patrulla de unos 25 soldados japoneses; que estos les llevaron de bajo de un árbol de manga donde se encontraron con otros que también habían sido aprehendidos y que con ellos (Gaballo y Galang) ascendían a 15 ó 16 en total los detenidos y congregados en dicho sitio; que las manos de los detenidos han sido atadas y fueron investigados por dichos soldados con la ayuda de un makapili mientras se encontraban

debajo del árbol de manga; que después de la investigación, dichos soldados dejaron libres a cuatro de los detenidos que eran viejos y los demás, que serían 11 ó 12 de dichos aprehendidos, fueron llevados al cuartel de los soldados japoneses en el municipio de Muñoz, Nueva Ecija, no sin antes pasar por el sitio donde se había quemado la casa del guerrillero Raymundo Sarga; y que el acusado Mariano Acoba no iba en compañía de los soldados japoneses que les habían arrestado y detenido, ni han visto a dicho acusado desde que fueron aprehendidos en el barrio de Disol hasta que llegaron al cuartel de dichos soldados en el municipio de Muñoz.

Somos, sin embargo, de opinión que las declaraciones de los mencionados testigos del acusado no han desvirtuado el hecho de que, en la mañana del 1.º de diciembre de 1944 y en el barrio de Disol, los testigos de la acusación Zacarías Sarenas, Guillermo Hilario, Eusebio Morales, Máximo Morales y Primitivo Morales fueron arrestados por unos 25 soldados japoneses acompañados y guiados por el acusado, quien informó a sus citados compañeros japoneses que dichos testigos proporcionaban comida y prestaban ayuda a los guerrilleros o supuestos guerrilleros, porque aun en el supuesto de que las declaraciones de los referidos Juan Gaballo y Ricardo Galang fuesen ciertas, no existe prueba alguna de que en el expresado barrio de Disol se encuentra solamente un árbol de manga, y es muy posible que los soldados japoneses, no acompañados por el acusado, que arrestaron a los testigos Juan Gaballo, Ricardo Galang y al Teniente Rey no eran los mismos sino diferentes de los soldados japoneses, acompañados y guiados por dicho acusado, que aprehendieron y detuvieron a Zacarías Sarenas, Guillermo Hilario, Eusebio Morales, Máximo Morales y Primitivo Morales, por estas razones: primera, porque los testigos de la defensa Juan Gaballo y Ricardo Galang y el Teniente Rey fueron conducidos por sus aprehensores al cuartel de los soldados japoneses en el municipio de Muñoz, Nueva Ecija, donde estuvieron detenidos por un período de 15 días; al paso que, los cinco testigos de la acusación han sido llevados por los soldados que les habían arrestado al cuartel que los mismos tenían en el municipio de San José donde han sido detenidos durante 14 días solamente; segunda, porque de los detenidos por los soldados japoneses, no acompañados por el acusado, que arrestaron a Juan Gaballo, Ricardo Galang y al Teniente Rey no figuraba Manuel Sevilla ni los testigos de la acusación Zacarías Sarenas, Guillermo Hilario, Eusebio Morales, Máximo Morales y Primitivo Morales; mientras que de los detenidos por los soldados japoneses, acompañados y guiados por el acusado, que han aprehendido a los referidos cinco tes-

tigos de la acusación no estaban Juan Gaballo y Ricardo Galang ni el Teniente Rey; tercera, porque los soldados, no acompañados por el acusado, que pusieron bajo arresto a Juan Gaballo y Ricardo Galang y al Teniente Rey llegaron a detener debajo del árbol de manga 15 ó 16 personas, incluyendo a los referidos Juan Gaballo, Ricardo Galang y el Teniente Rey; en cambio los soldados, acompañados y guiados por el acusado, que aprehendieron a los cinco testigos de la acusación detuvieron a 13 personas solamente, incluyendo a los mencionados cinco testigos; y cuarta, porque los soldados, no acompañados por el acusado, que arrestaron a Juan Gaballo y Ricardo Galang no investigaron a estos en el cuartel donde fueron conducidos sino debajo del árbol de manga; mientras que los testigos de la acusación Zacarías Sarenas, Guillermo Hilario, Eusebio Morales, Máximo Morales y Primitivo Morales que fueron aprehendidos por los soldados japoneses, acompañados y guiados por el acusado, han sido investigados en el cuartel de dichos soldados en el municipio de San José y no debajo del árbol de manga.

Pero aun en la remota hipótesis de que los soldados japoneses que habían arrestado a Juan Gaballo, Ricardo Galang y al Teniente Rey eran los mismos que aprehendieron a Zacarías Sarenas, Guillermo Hilario, Eusebio Morales, Máximo Morales y Primitivo Morales, somos de opinión que el testimonio de estos cinco testigos de la acusación debe merecer más peso y consideración que las aseveraciones de los testigos de la defensa Juan Gaballo y Ricardo Galang. Estos dos testigos afirmaron que no han visto al acusado Mariano Acoba en compañía de dichos soldados japoneses, al paso que los cinco referidos testigos de la acusación aseguraron haber visto a dicho acusado que acompañaba y servía de guía a los soldados japoneses que les aprehendieron, y es una regla que "una prueba afirmativa siempre es de mayor fuerza que otra prueba negativa." (Moran, Derecho de Pruebas, pág. 556; E. U. *contra* Bueno, 21 Jur. Fil., 408.) Es un principio general en materia de pruebas el de que, en igualdad de circunstancias, las declaraciones afirmativas tienen más fuerza que las negativas. (5 Jones on Evidence, sec. 898; 3 Greenl. on Evidence, par. 375; De Gala *contra* De Gala, 42 Jur. Fil., 822.)

Por esta misma azón, somos de opinión que las declaraciones de los testigos de la defensa al efecto de que no han visto al acusado vestir el uniforme y llevar la gorra iguales a los que usan los soldados japoneses, ni le han visto actuar como centinela con fusil o rifle frente del cuartel de los llamados "Ganap" en la población del municipio de San José, que naturalmente tienden a demostrar

un hecho negativo, no pueden prevalecer contra las afirmaciones de los cinco testigos de la acusación que aseguraron todo lo contrario, es decir, que han visto a dicho acusado actuar del centinela con fusil o rifle frente del mencionado cuartel de los "Ganap," vestido de uniforme y con la gorra, iguales a los que usan los soldados del ejército japones, y que exigía que le saludaran los que pasaban frente del cuartel, porque tal afirmación demuestra un hecho afirmativo.

El acusado también negó ser miembro de la organización denominada "Ganap" y su negativa trató de corroborarla con las declaraciones de Dioscoro San Juan, Juan Gaballo, Ricardo Galang y Benito Estrada. Pero estos testigos al aseverar que el acusado no es ni ha sido "ganap" se fundan simplemente en que si lo fuera ya no existiría ahora, porque en la localidad donde vivía el acusado se les privaba de la vida sin el menor escrúpulo a los miembros de la citada organización. No saben, sin embargo, dichos testigos si todos los miembros de la citada organización en la indicada localidad han dejado de existir. Y, somos de opinión, que las declaraciones inseguras de los susodichos testigos no pueden enervar el testimonio de los cinco testigos de la acusación quienes al afirmar que el acusado es y era un "ganap" dieron la explicación de que le consideraban al acusado como tal "ganap" porque solía estar de sentinela frente del cuartel que establecieron algunos de los llamados "ganap," de los cuales figuraba dicho acusado, en el municipio de San José. Además, según dichos testigos, durante la ocupación militar japonesa los miembros de dicha organización eran los únicos que tenían el privilegio de portar armas, a ciencia y paciencia de los soldados japoneses, y en aquella época de zozobras y peligros el acusado Mariano Acoba portaba rifle, por lo menos, en las veces en que actuaba de centinela frente del referido cuartel. Ciertamente encontramos que la explicación de los testigos de la acusación en apoyo de su afirmación es más verosímil y más natural que la dada por los testigos de la defensa.

Se invoca por el acusado el defecto o deformidad de sus dedos en las dos manos para desvirtuar indudablemente la prueba de que dicho acusado portaba rifle u otro arma análoga en las veces en que actuaba de centinela frente del cuartel de los "Ganap" en el municipio de San José. Pero somos de parecer que tal defecto o deformidad no ofrece importancia alguna en la determinación de la responsabilidad del acusado, porque la acusación no ha demostrado ni ha tratado de demostrar que el mismo puede disparar o había disparado por medio de un rifle u otro arma similar, sino que se limitó tan solo a probar que cuando ac-

tuaba de centinela dicho acusado portaba un fusil que lo tenía verticalmente a su lado derecho. Después de haber visto las dos manos del acusado mientras declaraba, estamos plenamente persuadidos de que dicho acusado podía, real y efectivamente, portar o sostener cualquier fusil o rifle teniéndolo verticalmente a su lado derecho y con la base del mismo sobre el suelo, o colocado sobre su hombro derecho y sosteniéndolo con su mano derecha.

Los hechos que se declaran probados constituyen el delito de traición. Evidentemente el acusado se identificó y voluntaria y abiertamente formó o hizo causa común con los soldados japoneses, que son súbditos de una nación enemiga de los Estados Unidos y del Commonwealth de Filipinas, toda vez que desde 1942 se hizo miembro de la organización denominada "Ganap," cuyos miembros han demostrado en todas las ocasiones simpatía y se han colocado al lado de dichos soldados y fueron los constantes aliados de los mismos; vestía el uniforme y la gorra que usan los miembros del ejército japonés; acompañaba y guiaba a éstos cuando hacían sus patrullas en diferentes sitios; frecuentaba y dormía en el cuartel de los soldados japoneses en el municipio de San José; e imitaba a sus citados aliados exigiendo que le saludaran los que pasaban delante del cuartel cuando actuaba de centinela del mismo. Y es también evidente que el acusado pública y voluntariamente prestó ayuda a los soldados japoneses en la campaña contra los guerrilleros y los que ayudaban a éstos pues acompañó y guió a dichos soldados cuando los mismos invadieron y acorralaron el barrio de Disol en la mañana del 1.º de diciembre de 1944 para buscar y aprehender a los guerrilleros o supuestos guerrilleros y a los que proporcionaban comida a los mismos; fué él que indicó en aquella ocasión a Zacarías Sarenas, Guillermo Hilario, Eusebio Morales, Máximo Morales y Primitivo Morales, que fueron arrestados y detenidos por dichos soldados japoneses por haber facilitado comida y ayuda a los guerrilleros; que cuando dichos detenidos fueron maniatados debajo del árbol de manga el acusado estaba presente; que después de atadas las manos de dichos detenidos les llevaron desde dicho árbol de manga hasta el cuartel de los japoneses en el municipio de San José y dicho acusado estaba con los soldados que vigilaban, seguían y conducían a los referidos detenidos; que cuando se les investigaba a Guillermo Hilario, Máximo Morales, Zacarías Sarenas, Eusebio Morales y Primitivo Morales y mientras se les torturaba a los tres últimos, el acusado estaba presente, hablaba con los japoneses que investigaban y maltrataban a dichos detenidos y tomaba parte y ayudaba en la investigación.

El acusado, que es ciudadano filipino, al realizar estos hechos, infringió voluntariamente su obligación de fidelidad a los Estados Unidos y al Commonwealth de Filipinas y dió la espalda a los supremos intereses de su patria pres-tándose a ser un vil instrumento de los nefarios invasores de la manera más abominable. Perjudicó y trató de eliminar a aquellos que proporcionaban alimento y prestaban ayuda a los que, en medio de tantos peligros, desafiaban las crueldades del enemigo para mantener su fe y lealtad a los Estados Unidos y al Commonwealth de Filipinas. Y por medio de los mismos hechos, el acusado, con manifiesta intención traicionó a su país y a sus conciudadanos.

Estamos convencidos de la culpabilidad del acusado en orden al delito de que se le acusa. En la comisión de dicho delito el acusado contaba con el auxilio de los soldados japoneses que estaban armados, pero esta circunstancia agravante está compensada con la atenuante de falta de instrucción o educación porque el acusado ha declarado, sin haber sido contradicho por prueba alguna, que no sabe leer ni escribir. Bajo estas circunstancias la pena que se le debe imponer es el grado medio de la señalada por la ley al delito que ha cometido.

Por todo lo expuesto, declaramos al acusado Mariano Acoba culpable fuera de toda duda racional, del delito de traición y le condenamos a la pena de reclusión perpetua, con las accesorias prescritas por la ley, a pagar una multa de ₱10,000 y las costas del juicio.

Así se ordena.

Manila, Filipinas, 3 de abril de 1946.

JOSÉ BERNABE

Juez Asociado

Concurre:

ÁNGEL S. GAMBOA

Juez Asociado

Judge Emilio Rilloraza concurs in a separate opinion:

RILLORAZA, J., concurring:

I am of the opinion that ignorance or lack of instruction and education of the offender should not be taken into account as a mitigating circumstance in favor of the accused in cases of treason.

No Filipino citizen is so ignorant or so lacking in instruction and education as not to know that to willingly serve and cooperate with a cruel, ruthless and diabolic enemy, or to be a traitor to one's fellow countrymen and native land, is wrong and punishable by law.

Authorities are not lacking which hold that ignorance or lack of instruction and education of the offender should

not be taken into account to create a mitigating circumstance in crimes like adultery and rape, inasmuch as no one is so ignorant as not to know that these crimes are wrong and in violation of the law. It seems not difficult to perceive that unfaithfulness in adultery is disloyalty in treason.

It is also my opinion that the aggravating circumstance that the crime be committed with the aid of armed men should not be considered against the accused.

There is no proof on record that with the aid of armed men the accused gave aid and comfort to the enemy or the Japanese soldiers who, as is to be expected, were then armed. The fact that the Japanese soldiers to whom the accused gave aid and comfort were armed at the time does not, in my opinion, constitute the aggravating circumstance involving the aid of armed men contemplated in article 14, No. 8, of the Revised Penal Code. It is an essential element of the crime of treason that there be an enemy or members of its forces, whether armed or not, to which aid and comfort may be given by the accused.

In all other respects, I concur in the opinion penned by Judge Bernabe.

EMILIO RILLORAZA

Associate Judge

UNITED STATES OF AMERICA
COMMONWEALTH OF THE PHILIPPINES

PEOPLE'S COURT
FIFTH DIVISION

[CRIMINAL CASE No. 200. FOR TREASON]

THE PEOPLE OF THE PHILIPPINES, Plaintiff

VERSUS

JOSE LUIS GODINEZ, Accused

DECISION

SAGUIN, J.:

Jose Luis Godinez is charged in the present case with the crime of treason. According to the information, in or about the period from April, 1942, to March, 1945, in the City of Cebu, Province of Cebu, and its environs, in conspiracy with the enemy, the said accused did then and there wilfully, feloniously, unlawfully and treasonably join and willingly serve the enemy as pilot for enemy ships and in that capacity did associate closely with the enemy, wear-

ing the enemy badge and propagating the strength of the enemy.

It had been established by competent and sufficient evidence and by the admission of the accused in open court that he is a Filipino citizen, born in the Province of Cagayan, Philippines; that from May 1942, to the latter part of January 1943 he worked as pilot of the Japanese Navy in Cebu City, and as such pilot he travelled with the Japanese ships to the different ports of the Philippines; that in the latter part of January 1943, due to the fact that he was then ill, he was relieved from said position; that in May 1943, at the request of a Japanese Army officer, he worked as harbor pilot in the port of Cebu up to October 1944; that at the beginning he was given a salary of ₱60 a month, but upon representations that said salary was not enough for the subsistence of his big family, he was given an extra allowance of rice, sugar and other articles, and later on his salary was increased up to ₱240 a month.

The defense contends that the accused committed the overt act in question under duress and compulsion. To be available as a defense, the compulsion and duress must not only be backed up by a real threat but it must be present, imminent and impending, and of such a nature as to induce a well-grounded apprehension of death or serious bodily harm if the act is not done. A threat of future injury is not enough (16 C. J. 91).

To be available as a defense, the fear must be well-founded, and immediate and actual danger of death or great bodily harm must be present and the compulsion must be of such a character as to leave no opportunity to the accused for escape or self-defense in equal combat. It would be a most dangerous rule if the defendant could shield himself from prosecution for a crime by merely setting up a fear from or because of the threat by a third person." (Wharton's Criminal Law, Vol. I, sec. 384.) It was held in *Bain vs. State*, 67 Miss. 557, 560, that "we can conceive of cases in which an act, criminal in its nature, may be committed by one under such circumstances of coercion as to free him from criminality. The impending danger, however, *should be present, imminent and impending, and not to be avoided.*" "The social system would be subverted and there would be no protection for person or property if the fear of man, needlessly and cravenly entertained, should be held to justify or excuse breaches of criminal law." (Quoted in Francisco's Law on Treason, page 84.)

We have, however, painstakingly reviewed the record in the present case and we could not find any evidence to support the contention of the defense. The only direct

evidence in the claim of the defense was the testimony of the accused himself and that of Captain Garcia, a witness for the prosecution. As stated above, the accused served as pilot for the enemy on two occasions—from May 1942 to January 1943 he worked under the Japanese Navy, and from May 1943 to October 1944 he served as such pilot under the Japanese Army. Referring to the circumstances under which he served the Japanese Navy as pilot, the accused gave the following testimony.

“ANSWER: Cuando fui investigado por los japoneses, supieron que eran práctico, entonces me dijeron que necesitaban mis servicios. Me mandaron entonces retirar a casa con la orden de no salir de ella hasta que me llamen, y fué finalizando abril o principios de mayo cuando me llamaron.”

Referring to the circumstances under which he served the Japanese Army as pilot, the accused declared.

“ANSWER: Durante el mes de enero de 1943, me consideraban todavía como de la Navy japonesa, pero al terminar enero de 1943, me dijeron que yo ya podía estar en mi casa, que no tenía mas que ver con la Navy, pero que no saliera de casa pues si me necesitaran me mandarían sacar. Y este duró hasta principios de mayo de 1943. Durante este período de tiempo un oficial del Army siempre iba a casa para pedir que yo trabajara en el Army porque necesitaban también prácticos.”

From said testimony of the accused, it does not appear that there was an impending threat to cause him death or serious bodily harm had he refused to serve as pilot for the enemy, but it simply means that the Japanese needed his services. He did not make any excuse or attempt to avoid rendering service to the enemy. He contended, however, that he could not do otherwise because his refusal would mean danger for himself and the members of his family, either of bodily harm or death. This was only a mere conjecture of the accused of a possible danger which might befall him and the members of his family. Possibility of danger does not constitute duress because, according to eminent authorities, said danger must be impending and imminent. Captain Oposa was also invited or offered by some Japanese to command a ship, but he managed to avoid serving the enemy by means of a ruse. He accepted the offer with the request that he first be allowed to go back to Leyte to get his family where they had then evacuated, but upon arriving at Leyte he did not come back to Cebu until January 1944. The Japanese did not make any effort to look for him and when he returned to Cebu he was not bothered at all. Capt. Joaquin Alex, who was the head of the pilots of the port of Cebu before the war, was also approached by a Japanese officer of the Navy, offering him the position of pilot during the Japanese occupation,

but he declined and nothing happened to him. These cases of Captains Oposa and Alex tend to show that refusal to accept a position offered by the Japanese does not necessarily mean punishment or death for the one who refused, as contended by the defense. It is true that Capt. Francisco Garcia, witness for the prosecution, on cross-examination, testified that when he was requested to serve as pilot by the Japanese, he could not refuse such request for fear that his refusal might cause harm to himself and to the members of his family. From this manifestation of Capt. Garcia, it cannot be inferred that there was an impending and imminent danger to himself and to the members of his family if he refused to serve as pilot for the enemy. It only indicates that he was afraid that if he refused to serve, something wrong might happen to himself and to his family and, as we have stated above, said possibility does not constitute duress as a legal defense. In connection with the case of said Captain Garcia, it may be stated that while he was already serving as pilot under the Japanese Navy, he was put in prison on the suspicion that he was pro-American and this fact was the cause for his dismissal from the service.

It would be a very dangerous precedent to allow an accused to sidetrack the treason charge with the excuse that fear was the motive which prompted him to give aid and comfort to the enemy. Loyalty to his country is the paramount duty of every citizen and constitutes one of the strongest pillars supporting the security and integrity of the state. During the last war the loyalty of the Filipinos was submitted to an acid test and, unfortunately, many failed to the extreme of having committed treasonable collaboration. Of course it was not expected that during the enemy occupation of our country every one had to put up a heroic resistance to said enemy, because heroism is the privilege of only a few, but everyone was then in a position to put up a passive resistance as was done by the immense majority of the Filipinos. Although said attitude caused suffering and hardships to them, they did so in compliance with their duty and so as not to betray their country. If fear of a possible and imaginary danger can be accepted as a legal defense in cases of treason, it is obvious that most, if not all, of the over five thousand cases now pending in the People's Court will necessarily fail and, at the same time, this policy would undermine the future security of our country. In the case at bar, the herein accused could have found many ways to avoid serving the enemy, either by avoiding contact with them or presenting some plausible excuse. But he did not do this; on the contrary at the first request of

the enemy he immediately served them for the period of more than two years. It is hard to believe that within that long period of time the accused was serving the enemy under compulsion and duress.

It is evident that the services rendered by the accused to the enemy was an effective aid and comfort to them. Taking into consideration the nature of the war in the Pacific area which was waged at sea and from island to island, it was of paramount importance to the enemy to keep all its vessels in good shape which were needed very badly in such kind of warfare, hence any aid given to them for such purpose necessarily was also a paramount importance. "Aid and comfort was defined by Lord Reading in the Casement trial comprehensively, as it should be, and yet probably with as much precision as the nature of the matter will permit: * * * An act which strengthens or tends to strengthen the enemies of a king and the conduct of a war against the king, that is in law the giving of aid and comfort, and an act which weakens or tends to weaken the power of the king and of the country to resist * * * is giving aid and comfort." (Cramer vs. U. S., 65 S Ct. 918, 932.)

Having been established that the services rendered by the accused as pilot was an effective aid and comfort to the enemy, we maintain that said overt act, by itself, constitutes the crime of treason as defined by Article 114 of the Revised Penal Code because the element adherence can be inferred from the same overt act.

"Where the act itself amounts to treason, it involves the intention, and such was the character of this act (delivery to the enemy of prisoners). (U. S. v. Hodges, 1815 C. C. D. Md. 2 Wheel. Cr. 477, 26 Fed. Cas. No. 15374.)

"Since intent must be inferred from conduct of some sort, we think *it is permissible to draw usual reasonable inferences as to intent from the overt acts.* The law of treason, like the law of lesser crimes, assumes every man to intend the natural consequences which one standing in his circumstances and possessing his knowledge would reasonably expect to result from his acts. Proof that a citizen did give aid and comfort to an enemy may well be in the circumstances sufficient evidence that he adhered to that enemy and intended and purposed to strike at his own country. * * * Treason—insidious and dangerous treason—is the work of the shrewd and crafty more often than of the simple and impulsive." (Anthony Cramer v. United States, 65 S. Ct. 918, Decided April 23, 1945. Italics supplied.)

Aside from the fact that the accused gave aid and comfort to the enemy, there are other evidences in the records which show clearly the intent of the accused to adhere to said enemy. William del Villar testified that during the bombing of the City of Cebu by the American planes, sometime in September 1944, being a neighbor of the accused, he was with him on that occasion and while the bombing

was going on, the said accused became enraged at the American bombers and exclaimed in Spanish: "Esos 'hijo de p. . .' son los más grandes *gangsters* que hay en América. Están borrachos esos. Les van a tumbar." The court does not contemplate any doubt about the veracity of said testimony because there is nothing in the record to justify any doubt thereof. The accused, trying to explain the reason why said witness William del Villar testified against him, said that on that occasion of the bombing, del Villar came to his air-raid shelter and was so nervous that he also made his (the accused's) daughters nervous, and for that reason he drove him out from the place. We believe that this incident, even if true, is not enough motive for the witness del Villar to testify falsely against the accused in this case.

Another witness by the name of S. P. Banis, referring to the pro-Japanese leanings of the herein accused, among other things, testified that during the Japanese occupation of the City of Cebu, the accused used to frequent his store, and on a certain occasion while the accused was in said store, he had a conversation with him, and upon his commenting on the possibilities of the Americans returning to the Philippines, said accused, in reply, emphatically exclaimed in Spanish: "Parece que sois locos, los Americanos no volverán nunca. Ustedes no saben de geografía," and showing the witness a map of the Pacific, the accused added: "Mira, Japón está aquí en este sitio, allí, allá, cómo pueden venir los Americanos?" According to this same witness, on another occasion when he met the accused in Jakosalem Street in the City of Cebu, the latter congratulated him on his release from the Kempei Tai and asked how he was treated there, to which he answered that the Japanese had questioned him but that otherwise they had treated him very well. Thereupon, the accused said: "Mire usted, estos japoneses son muy humanos. Si lo que había pasado con usted hubiera ocurrido en Alemania, ya no tendrá su cabeza en su hombro." The court does not also have any motive to doubt the veracity of said testimony of Mr. S. P. Banis. The excuse given by the accused that because he did not use to buy wine in this witness' store which prompted the latter to testify against him, is very flimsy and the Court believes that said motive is not sufficient for the witness to declare falsely against the accused in this case who is charged with the serious crime of treason.

From the testimonies of William del Villar and S. P. Banis, it appears clearly that during the Japanese occupation of Cebu, the herein accused not only believed that the Americans would not be able to return to the Philip-

pires but it can also be inferred that he was convinced that the Japanese would remain as rulers in the Philippines, and for that reason he adhered to them, probably for personal conveniences.

It was contended by the defense that the testimonies of William del Villar and S. P. Banis cannot be considered as evidence because they were not corroborated by other testimonies as required by the Treason Law. The Court, however, does not consider said testimonies as evidence of overt acts but as mere evidence of adherence. The consensus of authorities maintains that the rule requiring two witnesses to prove an overt act does not extend to evidence referring to the treasonous intent of the accused in committing the overt act. On the contrary, said authorities agree that the intention of the accused may be proved by one witness, collected from circumstances or even by a single fact.

"What is designed in the mind of an accused never is susceptible of proof by direct testimony. If we were to hold that the disloyal and treacherous intention must be proved by the direct testimony of two witnesses, it would be to hold that is never probable." (Anthony Cramer v. United States, 65 S. Ct. 918.)

"The conduct of a prisoner at other places and times tends to show the intent with which the overt act is committed and his acts at those places can be introduced as evidence of the treasonable design, although the prisoner is not on trial for such offense and is not punishable therefor, as all the acts are caused by one general design." (U. S. vs. Burr, 25 Fed. Cas. No. 14693.)

"It is only overt acts by the accused which the Constitution explicitly requires to be proved by the testimony of two witnesses. It does not make other common-law evidence inadmissible nor deny its inherent powers of persuasion. It does not forbid judging by the usual process by which the significance of conduct often will be determined by facts which are not acts. Actions of the accused are set in time and place in many relationships. *Environment illuminates the meaning of acts, as context does that of words. What a man is up to may be clear when we know the reciprocity and sequence of his acts with those of others*, the interchange between him and another, the give and take of the situation. (Anthony Cramer v. United States, 65 S. Ct. 918. (Italics supplied.)

Emphasized by the defense was the fact that one of the sons of the accused was a member of the USAFFE who served as a guerrilla together with another son of his, and that one of them was even decorated by the U. S. Army for meritorious service. This fact merely shows that the two sons were really loyal to America and to the Commonwealth of the Philippines, but it does not mean that the herein accused shared the same feeling. This fact is supported by the testimony of the witness William del Villar who affirmed that the whole family of the accused, with the exception of the accused himself, were pro-Americans with pro-American sentiments.

In view of the foregoing, the Court concludes that the accused, in serving the enemy as pilot of its ships during the last war, had extended aid and comfort to said enemy and that he had done so with treasonous intent, thus his act constitute the crime of treason.

Wherefore, the Court, finding the herein accused Jose Luis Godinez guilty, beyond reasonable doubt, of the crime of treason as defined and punished by article 114 of the Revised Penal Code, and taking into consideration the circumstance that said accused, in committing said overt acts, did not have the intent to commit so grave a wrong as that committed, sentences him to 14 years, 8 months and 1 day of *reclusión temporal*, to pay a fine of two ₱2,000 and the costs of these proceedings.

It is so ordered.

Cebu City, Cebu, Philippines, June 17, 1946.

FLORENTINO SAGUIN

Associate Judge

I concur:

JOSE P. VELUZ

Judge Borromeo dissents in a separate opinion:

DISSENTING OPINION

BORROME0, J.:

I regret to dissent from the decision of the majority convicting the defendant herein of the crime of treason, for it is my opinion that he should be acquitted from the charges on the strength of the following considerations:

Jose Luis Godinez, 50 years old, a Spanish mestizo and a Filipino citizen born in the Province of Cagayan, Philippines, is a licensed captain of the Philippine merchant marine for any ocean vessel, and had been working since 1935 as skipper for interisland boats and for ships plying in the high seas as well.

Upon the landing of the enemy on the City of Cebu, Captain Godinez was caught by Japanese soldiers, investigated and thereafter made to work for their ships as harbor pilot in that port. That the defendant served the enemy as harbor pilot for Japanese ships is a fact proven as an overt act by prosecution and admitted by the defendant under the allegation that he committed the overt act in question under duress and compulsion.

The majority, however, does not admit such a defense. It would be a very dangerous precedent, it says, to allow an accused to sidetruck the treason charge with the excuse that fear was the motive which prompt him to give aid and comfort to the enemy; and, citing Corpus Juris. Vol.

16, p. 91, to be available as a defense, the compulsion and duress must not only be backed up by a real threat but it must be present, imminent and impending, and of such a nature as to induce a well-grounded apprehension of death or serious bodily harm if the act is not done. A threat of future injury is not enough. But the evidence on record is so conclusive that we do not entertain any doubt that the defendant served the Japanese as harbor pilot of Cebu under moral compulsion of the enemy. Here are the proofs:

Capt. Canuto Oposa, one of the witnesses for the *prosecution*, declared that he was offered by a Japanese called Oyeda to command a ship, he accepted the offer but he told him that he had to go back to Leyte where his family was, but "my idea was just to be able to get out of Cebu"—"*all the time my idea was to escape*"—and his belief was that "if I will stay here, I will be forced to accept the position."

Another witness for the *prosecution*, Capt. Francisco Garcia, declared that when he arrived in Cebu City on June 1942 he found Capt. Godinez working with the Japanese Navy as pilot and, as such, his duty was to guide to port the Japanese boats under the absolute control of the Japanese Navy office at Pier 2; that he himself worked as pilot from December 1942 to May 1943; that there were five or six boats, small boats at the time, and these boats used to be at port five or ten times in a month, not regular; that Capt. Godinez worked as pilot in Cebu port together with other pilots, namely, Capt. Eduardo Gonzales, Marcelo Ayesa, and the witness himself; *that there were absolutely no Japanese pilots in Cebu, and necessarily, the Japanese had to force the Filipino pilots to serve them*; that the accused resigned in May 1943 because of ill health but had to come back; that they, the pilots, including the witness himself, were receiving each a monthly salary of eighty pesos, Japanese money, later on increased to ₱100, then ₱120, and lastly ₱300; that in peace time or before the war, each pilot earned easily one thousand pesos or more, Philippine currency or money; that he who was residing in Compostela, a town forty kilometers distance from Cebu City, *was forced to serve with the Japanese as pilot*; *that Japanese soldiers went to Compostela purposely to require him to serve as pilot, a demand he could not refuse because he knew the sufferings or injuries he himself and his family, would undergo in case of refusal knowing the idiosyncracies of the Japanese people after hearing the sad news of the incarcerations and killing of Filipinos by Japanese in Cebu City*; that he himself was twice imprisoned in the Japanese Kempei Tai almost dying of hunger and thirst; *that he knew nothing of any pilot who presented*

voluntarily or spontaneously to serve the Japanese; that families and relatives of those who were against the Japanese were subjected to grave threats; that during the first few months in the service, the pilot was given no salary and in spite of that he had to serve the Japanese because of fear that the Japanese would kill him or his family if he refused; that the witness worked as assistant to Captain Jajihara without salary during the first months; that he received his salary for the first time in December; that in Cebu he knew that any person who refused to serve with the Japanese had to be killed at the point of the bayonet; and he served the Japanese by force until he was put in prison dying of hunger, he was no longer required to serve because he was really sick and weak; that neither one of the pilots who served with the Japanese Navy in the Port of Cebu except the accused has been prosecuted; that of all the five thousand marine officers in the Philippines only the accused has been prosecuted; that aside from the accused and the other pilots including the witness himself who were forced to serve the Japanese, there were other captains and officers of boats in Cebu placed in the same predicament like Captains Osmundo Teves, Magalan, Emilio, and others; that some of them are now in the service of the American Army and Navy; and that those officers have not been prosecuted so far.

Testifying on his own behalf, the defendant stated:

Upon the invasion of the Japanese armed forces in the City of Cebu, he was caught by Japanese soldiers and was investigated. He could not cancel his identity and professional standing as pilot for there were many Japanese civilians who knew him well. The situation was jittery. There were many who were shot dead, and one of them was his relative. After his investigation, he was allowed to return home on condition that he should not move from his residence at Jakosalem Street. At about the end of April or the beginning of May, he was required to serve as pilot without pay but only a handful of rice as compensation. Later on, he started receiving monthly the amount of sixty pesos, Japanese money, by working first as a substitute pilot. His companions were Capts. Francisco Garcia, Eduardo Gonzales, and Marcelo Ayesa. Later, their monthly salary was increased to eighty, one hundred, and two hundred pesos, "Mickey Mouse" money. Before the war, he was earning a good income, easily six hundred, eight hundred or one thousand pesos a month to maintain his big family of a wife, nine children and an old sister. He had not thought of any useless efforts against the demands of the Japanese upon him for fear of the irreparable injury that the enemy may inflict upon his

family and himself. The defendant also testified that there was no reason under the sun why he could be induced to present freely and voluntarily to serve the dangerous job as pilot when there was no compensation offered and, if there was a meager salary of eighty pesos, Japanese money, to start with, the same could not in a week or even in two days maintain his big family. Furthermore, his sentiments and sympathy for his country and the United States were shown by the fact that even at the age of twenty he encouraged his son, Manuel, to enlist and enter the USAFFE, having been assigned in the office of the Provost Marshal under Col. Edmonds. Another son, Francisco, also served the United States forces. Both have been awarded medals of service and distinction. Manuel Godinez, confirming his father's assertions, testified that upon the invasion of Cebu by the Japanese, he withdrew upon orders to the mountains and fought continuously until the order of surrender by Gen. Wainright; that when the Americans liberated the Philippines, he served in Leyte as Staff Sergeant and now he is working in the Maritime Service of the United States, and that he and his elder brother, Francisco, received from the United States Government medals of honor and distinction.

Lastly, the witnesses for the prosecution themselves testified that Captain Godinez was always taken from his house and accompanied by Japanese officers and soldiers in an automobile to the pier, thus showing that there was always imposition upon the defendant by the enemy.

If, according to the witnesses for the prosecution themselves, Capts. Francisco Garcia and Canuto Oposa, the Filipino pilots in Cebu were forced to serve as such by the Japanese presumably because there was absolutely no Japanese pilots in this port, it is logical to conclude with the defendant that like the others he worked also as pilot in Cebu by compulsion of the enemy.

Paraphrasing Blackstone, as treason is the highest crime which any man can possibly commit, it ought, therefore, to be the most freely ascertained. Hence, in the appreciation of the merits of this case it should be taken into consideration as an important factor the situation of our country during the three years of Japanese domination and the way in which the enemy performed in the Philippines.

To have an idea of the way the Japanese performed in our country, in the Lawyer's Journal of December 31, 1945, it is portrayed vividly an organization which performed perfectly the policies of the Japanese in all their subjugated territories. We refer to the Japanese Military Police or the Kempei Tai. What is said there with respect

to the capital of our nation can be applied likewise to Cebu and other places of the islands actually occupied by the armed forces of our enemy. Here we quote in part the article:

"A heartless and merciless body of inquisitors, the military police reminded one of the iniquities committed during the Dark Ages. It rode roughshod over the people, respected no authority excepting its own, no law save what it said, and kept a reign of terror which the Filipinos, young and old, will never forget in all their history.

"The moment the Japanese army reached Manila, the military police inaugurated a régime which, for sheer brutality and ruthlessness, can find no parallel in the history of human civilization. The proclamation of the Japanese High command that for every life lost, ten Filipino lives would be exacted in payment, the military police took as a cue and excuse for their most nefarious deeds. The most innocent and harmless acts of humble civilians were punished by the Japanese military police with such humiliating form of punishment as face-slapping in public, tying to a post and facing the sun, and undressing of women in public, all of which rankled deeply in the heart of the people. Public torturing of men, women and children in the most barbarous manner and mass executions without previous hearing or investigation had been the rule rather than the exception. Fort Santiago, in the grim and sombre chambers of which the last tragic episodes of Japanese military rule were silently enacted, became the symbol of terrorism. The very mention of its name spread terror among the people. Nothing was too insignificant to be overlooked by its assiduous and suspicious agents and nobody, however righteous or highly placed, was too good to become suspect of the worst crimes imaginable. It was enough that there was a charge, no matter how patently absurd and ridiculous, that one moved on the wrong side of the street or that he uttered an innocent word susceptible of some evil interpretation, to bring the military police into action.

"There even seemed to be a keen rivalry between the Japanese military police and the army and navy garrison in proving which of them knew the best and most effective method of torture and which could turn out the largest number of victims. It was evidently the deliberate aim of the Japanese régime to terrify and cow the people with horror and fear. Military executions were not the simple acts of shooting the guilty against stone walls, but the diabolic exhibition of barbarism and savagery such as the chopping off of head with a Samurai sword at public plazas to which the government officials and the masses were called to watch the beastly ceremony. What rivers have not seen headless bodies floating after being thrown over following the mass execution, for the people to see? What community in the Philippines is not familiar with "zoning" and its terrors—massing of women, children and men together or in groups, in churches, schools and convents, without food or water for days, while awaiting the executions?

"For one thing, the military police was perfect as an instrument of intimidation. It served superbly the military administration policies, calculated to compel not only submission and obedience to its wishes but whatever struck its fancy. Determined that the Filipinos should keep step with its plans and measures, the Japanese régime needed only to prod the military police and its bidding was quickly done."

The following doctrines are applicable to the present case:

"Duress in its broad sense includes all instances where a condition of mind of a person caused by fear of personal injury to such persons property, wife, child, or husband, is produced by wrongful conduct from of another, rendering such person incompetent to contact with the exercise of his free will power." (Galusha v. Sherman, 105-Wis. 263, 81 N. W. 495, 47 L. R. A. 417.)

"It is well settled that to establish the defense of duress it is not necessary to show that actual violence was used, but that moral compulsion such as that produced by threats may be sufficient in legal contemplation to destroy free agency. While there is no controversy as to the general rule that threats without actual violence may constitute duress, yet, the authorities even at the present time are not in harmony as to the precise nature of the threat which will suffice to avoid an act induced thereby nor the content to which the circumstances of the case and the mental condition of the person threatened are to be considered." (9 R. C. L. Sec. 5, p. 714.)

"Coercion or duress exists where one is, by the unlawful conduct of another, indeed to do or perform some act under circumstances which deprive him of the exercise of his free will." (State ex rel. Young v. Ledeon, 104 Minn. 252, 116 N. W. 486, 16 L. R. A. (N. S.), 1058.)

"The rule is that when such pressure of constraint is brought to bear as will compel a man to go against his will and takes away his free agency, destroying the power of refusing to comply with them just demand of another, this will constitute legal duress regardless of manifestations or apprehension of physical force." (First, Nat. Bank v. Sargeant, 65 Neb. 594, 91 N. V. 595.)

"Moral compulsion, produced by threats to take life or to inflict bodily harm, is sufficient to constitute duress." (Branch v. Shoemaker, 14 Wall. (U. S.) 314, 20 L. ed., 852.)

"Duress, in its more extended sense, means that degree of constraint or danger, either actually inflicted or in apprehension, to overcome the mind and will of a person of ordinary firmness." (United States v. Rackaboc 16 Wall. (& S.) 414, 21 L. ed. 457.)

And now come these legal maxims:

"Actus non facit rerum nisi mens sit reas." (The act itself does not make a man guilty unless his intention were so.)

"Actus no invito factus non est meus actus." (An act done by me against my will, is not my act.)

* * *

There are on record circumstantial proofs of defendant's adherence to the enemy, to wit:

(1) During the year 1943, the accused often went to the coffee shop of S. B. Banis and during the discussion between Banis and accused, the latter always showed his pro-Japanese sentiments. On one occasion, during November, 1943, Banis told him about the expected arrival of the Americans and the defendant exclaimed that Banis was crazy in believing that the Americans were coming back to the Philippines, because according to the accused, the American forces will never come back to these Islands.

(2) Sometime in July 1942, Captain Canuto Oposa was in Cebu City for a few days. He saw the defendant inside his own auto-

mobile which carried a Japanese flag and on his left arm the accused was wearing a band with Japanese characters.

(3) When the Japanese landed in Cebu City on April 11, 1942, the accused with two other persons went up a Japanese ship anchored alongside the Pier, presented his respects to the Japanese officer in charge of the boat, handed to him a pistol which was examined by said Japanese officer. The accused showed how the firearm worked by firing the pistol.

(4) From April 1942 to October 1944, the accused had a Japanese flag placed at the door of his house situated at D. Jakosalem Street, Cebu City about a foot wide and about two feet long and on the left side of the door was a piece of board with Japanese characters written. These facts were established by the testimony of witness Antonio Yo.

(5) During the middle of September, 1944, when American planes were dropping bombs in Cebu City, the accused who was in the lawn of his house said, more or less, the following: "Those sons of the bitches of Americans (referring to the American aviators) are the gangsters of the United States; they are drunk, they will go down." (Testimony of William del Villar.)

These charges, however, merit no serious consideration. Thus, the fact that the defendant, while working with the Japanese, was wearing a Japanese badge on his left arm, that he delivered to a Japanese officer on board a ship his pistol, and that he had put a Japanese flag at his house, have been satisfactorily explained by the defendant.

Captain Godinez admits that he surrendered his pistol to a Japanese officer on a Japanese ship, had to put a Japanese flag at his house, and while working was wearing on his left arm a band with Japanese characters. He had to do so to obey the Japanese military authorities, or would receive severe punishment otherwise. He denied, nevertheless, having uttered any remark against the American bombers. The William del Villar had a grudge against him because he put him out several times from the air raid shelter for causing fear and nervousness to his daughters during the bombing of Cebu by the American fliers.

Again, the imputation by witness William del Villar that Captain Godinez had uttered offensive words against the American aviators, is not only uncorroborated but also of doubtful veracity taken into account that, according to the defendant, this witness has a grudge against him as related above.

As to the assertion of witness S. P. Banis that on one occasion the defendant, showing him a map pointing the islands in the Pacific conquered by Japan, told him that the Japanese were strong and the Americans could not come back to the Philippines anymore, this is a matter of opinion which in no way can constitute a valid proof, even assuming that the defendant had expressed such an opinion, although he denied this imputation.

Obvious it is that the evidence being clear that Captain Godinez served the enemy as harbor pilot of Cebu by moral compulsion, the said defendant should be acquitted with the pronouncements of the law in his favor. Duress or compulsion is a defense allowable in treason prosecution. (63 C. J., Sec. 20, p. 819.)

But the majority holds that to render service to the Japanese for their ships during the war is an overt act which constitutes by itself a crime of treason for being an effective aid and comfort to the enemy and the element of adherence can be inferred from the same overt act.

I dissent from this opinion which is of far-reaching importance. If this were to be abided, all captains, officers, and members of the merchant marine in the Philippines who served the Japanese during the last war might be held answerable for treason, which is, indeed to commit a gross injustice.

The mere fact of collaboration does not constitute disloyalty or treason. Even willful collaboration in utter disregard of the country's honor or the public welfare needs to be thoroughly investigated and a finding guilt must be clearly substantiated.

In other words, the mere fact of serving the Japanese—made government of the Philippines or any of its agencies during the last war, is not treasonable *per se*. Those who by force of the circumstances served the puppet government called Executive Commission and Philippine Republic or any of its agencies without any intention to betray our country, should not be branded collaborators if they did not commit any act which constitute actual and effective aid and comfort to the enemy. The real collaborators are those who had adhered to the enemy by treasonable deeds voluntarily and with full consciousness of the significance of their acts constituting an actual and effective aid and comfort to the said enemy.

Cebu City, August 8, 1946.

FORTUNATO V. BORRAMEO
Associate Judge

APPOINTMENTS AND DESIGNATIONS

BY THE PRESIDENT OF THE PHILIPPINES

UNITED NATIONS ORGANIZATION

Senators Jesus M. Cuenco and Pedro Hernaez and Representatives Raul Leuterio and Lorenzo Sumulong, appointed Congressional Members of the Philippine Delegation to the United Nations Organization, October 14, 1946.

UNO EDUCATIONAL, SCIENTIFIC AND CULTURAL CONFERENCE IN PARIS

Senator Proceso Sebastian, appointed Chairman, and Senator Salipada K. Pendatun, Representative Francisco Ortega, Dr. Encarnacion Alzona and Dr. Gabriel Mañalac, Members of the Philippine delegation to the educational, scientific and cultural conference of the United Nations in Paris, October 31, 1946.

NATIONAL POWER CORPORATION

Filemon C. Rodriguez, appointed Acting Assistant Manager, and Casimiro Pagsanhan, Acting Treasurer of the National Power Corporation, September 19, 1946.

MANILA HOTEL

General Manager Manuel Nieto, of the National Tobacco Corporation, appointed Managing Director of the Manila Hotel, October 14, 1946.

PROVINCIAL AND CITY TREASURERS

Provincial Treasurers appointed, ad interim, on October 10, 1946:

Pascual Caoile, for Bataan; Julio Curva, for Bohol; Vicente C. Hipona, for Bukidnon; Sisenando Silvestre, for Cagayan; Exequiel Dajoyag, for Catanduanes; Bernardo Bagamaspad, for Cotabato; Pedro Encarnacion, for Davao; Vicente Resurreccion, for Ilocos Norte; Frank H. Danao, for Lanao; Meliton Prudencio, for La Union; Francisco Martinez, for Leyte; Irineo V. Lapres, for Marinduque; Nicolas Tolentino, for Masbate; Nicolas Galvez, for Mindoro; Filomeno D. Pacana, for Misamis Occidental; Pedro Elizalde, for Misamis Oriental; Placido H. Bandonil, for the Mountain Province; Lazaro J. Alfabeto, for Negros Oriental; Benito L. Sales, for Nueva Vizcaya; Ciriaco L. Latonero, for Palawan; Antonio F. Buenaventura, for Pangasinan; Pio Advincula, for Romblon; Gregorio S. Castelo, for Sorsogon; Roman Padilla, for Sulu; Angel S. Tadeo, for Tarlac; Marcos Jorge, for Zambales; and Rosalio D. Macrohon, for Zamboanga.

City Treasurers appointed, ad interim, on October 10, 1946:

Melanio Honrado, for Baguio; Anatolio Inclino, for Cebu; Pastor B. de la Cerna, for Davao; Simeon Bolaño, for Iloilo; and Jose Elayda, for Zamboanga.

JUSTICES OF THE PEACE

Confirmed by the Commission on Appointments on September 10, 1946:

Pacificador Lluch, for Lumbatan, Bayang, Butig and Binidayan, Lanao; Laurentino Ll. Badelles, for Kolambugan, Kapatangan and Monai, Lanao; Cesareo Villareal, for Lopez, Quezon; Arturo Pascual, for Carranglan, Nueva Ecija; Emilio Monton, for Liloan and Pintuyan, Leyte; Ambrosio D. Castillo, for Caraga and Manay, Davao; Adolfo Mendoza, for Anao, Tarlac; Maximino Montenegro, for Uato, Marantao and Tugaya, Lanao; Pedro Alforque, for Batuan and Carmen, Bohol; Alfonso Penaco, for Baliangao, Misamis Occidental; Eufrosino Limbaco, for Initao, Lourdes and Lumbia, Misamis Oriental; Himerio B. Garcia, for Tagoloan, Misamis Oriental; Alfredo C. Terrado, for Mangatarem, Pangasinan; Juan K. Solis, for Lemery and San Luis, Batangas; Lorenzo B. Aguila, for Balayan and Calaca, Batangas; Ramon Gahol, for Taal, Batangas; Antonio E. Buenaventura, for Sampaloc, Quezon; Teofilo M. Cabrera for Santa Barbara, Pangasinan; Jose A. Esguerra, for Lebak and Salaman, Cotabato; Nemesio Cordero, for Pototan and Dingle, Iloilo; Nicolas Lutero, for Dumangas and Barotac Nuevo, Iloilo; Simeon Tolentino, for Ivana, Mahatao, Uyugan and Sabtang, Batanes; Agustin Antillon, for Cagayan, Misamis Oriental.

Confirmed by the Commission on Appointments on September 16, 1946:

Felix V. Borja, for Tangub and Bonifacio, Misamis Oriental.

Confirmed by the Commission on Appointments on September 17, 1946:

Teofilo Santa Maria, for Ganassi, Pualas and Nunungan, Lanao; Vicente Custodio, for Santa, Ilocos Sur; Fortunata Padlan Mondok, for Urbiztondo, Pangasinan; Ignacio Baun, for Binmaley, Pangasinan; Prudencio Catubig, for San Carlos, Pangasinan; Januario Ermitaño, for Dagupan, Pangasinan; Fidel P. Dumlaó, for Currimaó, Ilocos Norte; Lucas D. Carpio, for Paoay, Ilocos Norte; Santiago

B. Andres, for Sarrat, Ilocos Norte; Juan Jacinto, for Vintar, Ilocos Norte; Romualdo Enriquez, for Lucena, Quezon.

PROVINCES

Batangas

Macario Medrano, Benito K. Reyes, Ramon Honorico, Sixto Guerra, Quintin Hernandez and Gregorio Caringal, appointed Councilors of Ibaan, Batangas, October 14, 1946.

Constancio Enriquez, appointed Vice Mayor, and Marcelo Ermita, Policarpo Medrano, Panfilo A. Mendoza, Dalmacio Cruzado, Simeon Villaluna, Moises Rojas, Tomas Fernandez and Nemesio Sevilla, Councilors of Nasugbu, Batangas, September 29, 1946.

Isaac Lecaros, Marcial Amparo, Julian Andal, Rosario S. Zaraspe, Casimiro Manalo and Ciriaco Solis, appointed Councilors of Lobo, Batangas, September 23, 1946.

Sebastian Silva, appointed Vice Mayor, and Jose T. Lantin, Pedro Malabanan, Simeon Kison, Urbano Mojares, Feliciano Lantin, Francisco M. Reyes, Francisco R. Katigbak and Jose P. Reyes, Councilors of Lipa, Batangas, September 23, 1946.

Pedro Lejano, Clemente Lejano, Mateo Ruffy, Teofilo Lagui, Francisco Quezon and Francisco Limjoco, appointed Councilors of Lian, Batangas, October 19, 1946.

Bohol

Ramon P. Varon, appointed Vice Mayor, and Jacinto Rubillar, Restituto Bacareza, Amado Agpasa, Abundio Javenes and Honorata Alvaba, Councilors of Maribojoc, Bohol, September 11, 1946.

Aquilino M. Talaboc, appointed Mayor, and Crispin Quijada, Santos Dublin, Eusebio M. Estomo, Antonio Loquillano, Simeon Fullido and Macario Guillena, Councilors of Dauis, Bohol, October 3, 1946.

Hipolito Paraguya, appointed Councilor of Tubigon, Bohol, October 14, 1946.

Romualdo Casil, appointed Councilor of Guindulman, Bohol, September 11, 1946.

Jesus Jimenez, appointed Mayor of Inabanaga, Bohol, September 29, 1946.

Lucio Jay, appointed Councilor of Alburquerque, Bohol, September 29, 1946.

Macario Dinque, appointed Councilor of Corella, Bohol, September 12, 1946.

Graciano Nituda, Julian Cagape, Crisostomo Muring, Pablo B. Olaer, Perfecto Pequero and Zacarias Bayron, appointed Councilors of Candijay, Bohol, October 2, 1946.

Victorio Ponla and Cipriano Mozo, appointed Councilors of Calape, Bohol, October 2, 1946.

Bulacan

Avelino Mendoza, appointed Councilor of Bocaue, Bulacan, September 17, 1946.

Camarines Norte

Joaquin Nicio, Longino de Ramos and Zacarias Jugo, appointed Councilors of Capalonga, Camarines Norte, October 12, 1946.

Catanduanes

Marcelo Tejada, appointed Vice Mayor of Baras, Catanduanes, October 14, 1946.

Cebu

Isagani Carabio, appointed Councilor of Bantayan, Cebu, October 15, 1946.

Juan Climaco, appointed Mayor of Toledo, Cebu, October 15, 1946.

Damacio Jugan, appointed Vice Mayor, and Pantaleon Cabilan, Councilor of San Remigio, Cebu, September 12, 1946.

Manuel Ruelo and Estropio Luzeñara, appointed Councilors of Tuburan, Cebu, September 19, 1946.

Davao

Vicente Batoto, appointed Vice Mayor, and Victorino Dasig, Leoncio Aradillos and Juan Carasco, Councilors of Santa Cruz, Davao, September 29, 1946.

Ilocos Norte

Luis Salva, appointed Councilor of Pinili, Ilocos Norte, October 14, 1946.

Manuel Castillo, Florencio Publico, Gabriel Parel, Raymundo Osalvo, Francisco Hidalgo and Francisco Pajel, appointed Councilors, and Juan Alonzo, Vice Mayor of Bantay, Ilocos Sur, September 20, 1946.

Doroteo Taqueban, appointed Vice Mayor, and Agustin Quiaco, Brigido Aluyan, Valentin Gironella and Leonardo Iga, Councilors of Bauguen, Ilocos Norte, September 20, 1946.

Ilocos Sur

Jose Amba, Juan Biteng, Jr., Victor Laoagan, Valerio Concepcion, Marcelino Guieb and Anastacio Aluyan, appointed Councilors, and Esteban Paredes, Vice Mayor of Santa Cruz, Ilocos Sur, September 20, 1946.

Baltazar Alunen, appointed Vice Mayor, and Artemio Cariño, Gervacio Mati, Onofre Consolacion, Benito Gadia, Gregorio Gabertan, Magdaleno Abaya, Ponciano Martinez and Agustin Balbin, Councilors of Candon, Ilocos Sur, September 20, 1946.

Pantaleon Galengco, appointed Vice Mayor, and Domingo Umbon, Pascual Rosendo, Segundo Dangailar and Casimiro Waquis, Councilors of Banaoyo, Ilocos Sur, September 20, 1946.

Valentin Cabantay, appointed Vice Mayor, and Apolinario Divina, Filomeno Darao, Pio Pandacan and Pedro Antonio, Councilors of Lidlidda, Ilocos Sur, September 20, 1946.

Domingo Manog, appointed Vice Mayor, and Eleuterio Castillo, Domingo Manzano, Fausto Felicitas, and Gregorio Escobar, Councilors of Burgos, Ilocos Sur, September 20, 1946.

Eustaquio Elefante, appointed Vice Mayor, and Ambrosio Ellorin, Benito Palacio, Gaspar Cuburel, Miguel Estrañero, Juan Escalona, and Segundo Rendon, Councilors of Santiago, Ilocos Sur, September 20, 1946.

Tomas Espejo, appointed Vice Mayor, and Tomas Abellera, Sergio Enrado, Pedro Abad, Severo Orpilla, Eulogio Egipto and Francisco Edralin, Councilors of San Esteban, Ilocos Sur, September 20, 1946.

Placido Domingo, Juan Y. Ayson, Isidro Dasalla, Ignacio Escobar, Melecio Andrión and Eleuterio Peña, appointed Councilors of Santa Maria, Ilocos Sur, September 20, 1946.

Dionisio Cudiz, Primitivo Bautista, Eusebio Fariñas and Severino Comisio, appointed Councilors of Narvacan, Ilocos Sur, September 20, 1946.

Anastacio Bulseco, appointed Vice Mayor, and Victoriano Valderizo, Nicolas Buenavista, Fidel Bello, Segunda de Peralta, Lino Bellon and Timoteo Bellones, Councilors of Santa, Ilocos Sur, September 20, 1946.

Angel Sunico, appointed Vice Mayor, and Jose Pe Benito, Asuncion Soller, Damian Sivila, Leon Serna, Ambrosio Sabater and Sotero Salgado, Councilors of Cabugao, Ilocos Sur, September 20, 1946.

Miguel Alviar, appointed Vice Mayor, and Pascual Rebibe, Margarita Vagay, Fausto Salvador, Sulpicio Peneyra, Bonifacio Rosario and Angel Billon, Councilors of Lapog, Ilocos Sur, September 20, 1946.

Manuel Udarbe, appointed Vice Mayor, and Maximo Taasin, Angel Tolentino, Tomas Urbian, Honorato Tipon, Raymundo Corpuz and Higinio Cortez, Councilors of Magsingal, Ilocos Sur, September 20, 1946.

Andres Tadique, appointed Vice Mayor, and Anastacio Tabula, Demetrio Pizarro, Jose Tinaza, Epifanio Jaramillo, Domingo Fagela, and Juan Palpal-latoc, Councilors of Santo Domingo, Ilocos Sur, September 20, 1946.

Gregorio Somera, appointed Vice Mayor, and Marcelino Palumares, Andres Purisima, Raymundo Somera and Marcos Purisima, Councilors of San Ildefonso, Ilocos Sur, September 20, 1946.

Pedro Ragunton, appointed Vice Mayor, and Rufo Ableg, Cirilo Raguindin, Hilarion Reintec, Sinforoso Rapacan, Magdaleno Rapisura and Benito Ragaza, Councilors of Santa Catalina, Ilocos Sur, September 20, 1946.

Faustina Lazo, appointed Vice Mayor, and Julian Rilvena, Placido Real, Agustin Reotoc and Victorino Lazo, Councilors of San Vicente, Ilocos Sur, September 20, 1946.

Dangio, appointed Vice Mayor of Galinuyod, Ilocos Sur, September 20, 1946.

Macario Singson, appointed Vice Mayor of Nagbukel, Ilocos Sur, September 20, 1946.

Filomeno Villanueva, appointed Vice Mayor of Tagudin, Ilocos Sur, September 20, 1946.

Anacleto Mendoza, appointed Vice Mayor, and Severo Rafanan, Felix Amores, Simeon Tejano, Silverio Natividad, Vicente Pabare, Candido Azada, Francisco Frando and Ambrosio Acedo, Councilors of Vigan, Ilocos Sur, September 20, 1946.

Antero Martinez, appointed Vice Mayor, and Rita Ll. de Quitiriano, Anastacio Quintal, Juan Serna, Pablo Quitevis, Vicente Quional and Tito Asañas, Councilors of Cacaoan, Ilocos Sur, September 20, 1946.

Alfonso Yabes, appointed Vice Mayor, and Severino Igne, Antonio Rosete, Arsenio Cabacungan, Eufemio Inopinado, Braulia C. Anunciacion and Ildefonso Guzman, Councilors of Sinait, Ilocos Sur, September 20, 1946.

Iloilo

Salvador Caigoy, appointed Councilor of Leon, Iloilo, October 12, 1946.

Laguna

Anastacio Deangkinay, appointed Councilor of Los Baños, Laguna, October 19, 1946.

Leyte

Anatalia Trani de Nierras, appointed Vice Mayor of Biliran, Leyte, October 14, 1946.

Tomas Gerong, appointed Councilor of Macrohon, Leyte, September 29, 1946.

Antonino Seviles, appointed Vice Mayor of Merida, Leyte, October 15, 1946.

Dominador Ricalde, appointed Councilor of Cabaian, Leyte, September 17, 1946.

Teofilo Nolasco, appointed Councilor of Tanauan, Leyte, October 6, 1946.

Eugenio Panzo and Soledad Tanpuz, appointed Councilors of Tolosa, Leyte, October 10, 1946.

Mindoro

Tomas Goco, appointed Mayor of Calapan, Mindoro, October 3, 1946.

Simeon Bautista, Simeon Basco and Teotimo Quiñones, appointed Councilors of Mamburao, Mindoro, September 17, 1946.

Francisco Zulueta, Lucio Samaco, Daniel Manigbas, Lorenzo Aceveda, Nicolas Hernandez and Enrique Torreliza, appointed Councilors of Baco, Mindoro, September 29, 1946.

Misamis Oriental

Ignacio Mariano, appointed Mayor of Tagoloan, Misamis Oriental, October 16, 1946.

Exequiel Macapilit, appointed Councilor of Kinogitan, Misamis Oriental, October 19, 1946.

Nueva Vizcaya

Igmidio Vadil, Tomas Simbanan, Martin Prado, Alejo Francia, Francisco Mangauang and Epifanio Castañeda, appointed Councilors of Dupax, Nueva Vizcaya, September 17, 1946.

Pampanga

Julian Panlilio, appointed Councilor of Mexico, Pampanga, September 29, 1946.

Pangasinan

Timoteo Petalver, appointed Councilor of Bani, Pangasinan, September 24, 1946.

Apolonio de la Cruz, appointed Councilor of San Manuel, Pangasinan, September 16, 1946.

Simplicio Rosario, appointed Councilor of San Carlos, Pangasinan, September 16, 1946.

Alejandro Jazmin, appointed Vice Mayor, and Marcos Sabat, Napoleon Sison, Teofilo Alegario, Jacinto Carbonel, Ruperto Vehemente, Geronimo Verba, Adriano Dones and Pablo Campos, Councilors of Mangatarem, Pangasinan, October 14, 1946.

Federico Caballes, appointed Vice Mayor of Bolinao, Pangasinan, October 18, 1946.

Pedro Reyes, appointed Councilor of Mabini, Pangasinan, October 19, 1946.

Segundo Estigoy, appointed Councilor of Tayug, Pangasinan, October 19, 1946.

Isaac Estomo, appointed Mayor; Apolinario Lomibao, Vice Mayor; and Daniel Trinidad, Councilor of Santa Maria, Pangasinan, October 19, 1946.

Quezon

Julian Zoleta, appointed Vice Mayor of Lucena, Quezon, October 21, 1946.

Benjamin Eleazar, appointed Vice Mayor, and Telesforo Llamas, Jr., Councilor of Mauban, Quezon, October 14, 1946.

Gregorio Laurel, appointed Mayor, and Eustaquio Maxi, Vice Mayor of Tagkawayan, Quezon, October 14, 1946.

Gregorio Laurel, Jr., appointed Councilor of Tagkawayan, Quezon, October 14, 1946.

Rizal

Julio Samonte, appointed Councilor of Tanay, Rizal, October 14, 1946.

Nicanor F. Cruz, appointed Mayor, and Cornelio Rivera, Vice Mayor of Parañaque, Rizal, October 10, 1946.

Amado Mendoza, Flavio de Leon, Juan Santos, Octavio de Leon, Tomas Borja, Enrique Factor, Fernando Pagtakhan and Pablo Gabriel, appointed Councilors of Parañaque, Rizal, October 10, 1946.

Samar

Andres Cartel and Emilio Bracamonte, appointed Councilors of Oquendo, Samar, September 19, 1946.

Sotero Nacional, appointed Vice Mayor, and Vicente Saberon and Constantina Teoco, Councilors of Calbiga, Samar, October 14, 1946.

Julian Lacambra, appointed Vice Mayor, and Leon Balibalita, Councilor of Santa Rita, Samar, October 19, 1946.

Surigao

Cosme Onsing, appointed Vice Mayor, and Domingo Peñanueva, Councilor, of Lingig, Surigao, October 14, 1946.

Tarlac

Delfin Panganiban and Julian Ibarra, appointed Councilors of Gerona, Tarlac, October 9, 1946.

Melanio de Jesus, appointed Councilor of Mayantoc, Tarlac, September 29, 1946.

Zambales

Bartolome Carrera, Juan Felix, Proceso Opinga, Bibiano G. Alinea, Eulogio N. Peregrino and Crisanto de los Reyes, appointed Councilors of Cabangan, Zambales, September 11, 1946.

Wenceslao Mora, appointed Vice Mayor, and Teresa A. Florita, Paulo M. Mercado, Aquilino Camat, Paulo Abastillas, Victor del Fierro and Loreto R. Talucad, Councilors of Iba, Zambales, September 11, 1946.

Severino Mena, appointed Vice Mayor, and Fulgencio M. Angeles, Jose Montevirgen, Domingo Cabali, Silvestre Abille, Exequiel Maniago and Alfonso Tongson, Councilors of Santa Cruz, Zambales, September 10, 1946.

Juan Pastor, appointed Vice Mayor of Cabangan, Zambales, October 19, 1946.

ORDINANCES OF THE CITY OF MANILA

[ORDINANCE No. 2975]

AN ORDINANCE REGULATING THE DISPOSAL OF DEAD ANIMAL BODIES AND FOR OTHER PURPOSES.

Be it ordained by the Municipal Board of the City of Manila, that:

SECTION 1. It shall be the duty of any person owning or in possession of any dead animal such as horse, cow, carabao, hog, sheep, goat or other four-footed animals (except animals sacrificed for human consumption in city slaughterhouse) to submit a report of its death, within two hours thereafter, either directly to the City Veterinarian, or to the nearest police station, the police officer receiving such report shall transmit the same to the City Veterinarian who shall take immediate steps for its sanitary disposal; and it shall be unlawful for such person or any other person to sell, dispose of, or give away the meat of such animal or any part thereof without previous permit from the City Health Officer or City Veterinarian.

SEC. 2. Unless otherwise authorized by the City Health Officer or City Veterinarian, in accordance with the preceding section, the owner or person in possession of a dead animal shall bring the same to the City Pound or may, at his option, surrender the same to the City Veterinarian, in which case it shall be brought to the City Pound at his expense.

The owner of the dead animal shall surrender the certificate of ownership, in case of large animals, to the City Treasurer through the City Veterinarian.

SEC. 3. Any person found in possession of a dead animal without being the lawful owner or possessor thereof or without having submitted the report herein prescribed shall be deemed to have acquired or retained the same for human consumption.

SEC. 4. There shall be charged and collected by the City Health Officer for the removal of dead animals, the following fees:

- (a) Carabao, cow or horse ₱5.00
- (b) Other kinds of animals 2.50

SEC. 5. Any violation of this Ordinance and possession or acquisition of a dead animal for human consumption shall be pun-

ished by a fine of not more than fifty pesos or by imprisonment for not more than thirty days, or both, in the discretion of the court.

SEC. 6. Any ordinance of parts thereof, which is in consistent with the provisions of this Ordinance, is hereby repealed.

SEC. 7. This Ordinance shall take effect upon its approval.

Enacted, October 2, 1946.

Approved, October 14, 1946.

[ORDINANCE No. 2976]

AN ORDINANCE AMENDING SECTION 782 OF ORDINANCE NO. 1600, KNOWN AS THE REVISED ORDINANCES OF THE CITY OF MANILA, INCREASING THE LICENSE FEES ON THE BUSINESS OF UNDERTAKING OR EMBALMING DEAD HUMAN BODIES.

Be it ordained by the Municipal Board of the City of Manila, that:

SECTION 1. Section 782 of Ordinance No. 1600, known as the Revised Ordinances of the City of Manila, is hereby amended to read as follows:

"SEC. 782. *License fees.*—For every license issued to a person or entity to operate or engage in the business of undertaking or practice of embalming dead human bodies, there shall be paid and collected by the City Treasurer an annual license fee as per schedule below which may be paid either semestraly or quarterly at the option of the taxpayer:

CLASS A—Undertakers with embalming establishment and depositing corpses in their funeral parlors and rendering funeral services by any kind of transportation	₱1,000.00
CLASS B—Undertakers rendering funeral services only by any kind of transportation	400.00
CLASS C—Undertakers rendering funeral services only by animal drawn vehicles	300.00
CLASS D—Undertakers serving coffins not drawn by animals or motor	150.00

CLASS E—Individual persons engaged in the business or practice of embalming for any embalming establishment, each 50.00

SEC. 2. *Repealing clause.*—Any existing provisions or Ordinance now in force, inconsistent with the provisions of this Ordinance, are hereby repealed.

SEC. 3. This Ordinance shall take effect upon its approval.

Enacted, October 11, 1946.

Approved, October 24, 1946.

[ORDINANCE NO. 2977]

AN ORDINANCE AMENDING SECTION 703 OF ORDINANCE NO. 1600, KNOWN AS THE REVISED ORDINANCES OF THE CITY OF MANILA, AS AMENDED, BY INSERTING THEREIN A NEW CLASSIFICATION OF THE BUSINESS OF MANUFACTURING FLOOR WAX AND IMPOSING NEW RATES OF LICENSE FEES THEREON.

Be it ordained by the Municipal Board of the City of Manila, that:

SECTION 1. Section 703 of Ordinance No. 1600, known as the Revised Ordinances of the City of Manila, as amended, is hereby further amended, by inserting therein a new classification of the business of manufacturing floor wax and imposing new rates of license fees thereon, to read as follows:

	Annual license fee
"For the manufacture of floor wax—	
CLASS A—With machinery	P200.00
CLASS B—Without machinery	120.00

Provided, That any person desiring to conduct or engage in the manufacture of floor wax, shall first obtain a permit from the Fire and Health Departments duly approved by the Mayor and a license from the City Treasurer which shall be issued upon presentation of such permit: *And provided, further*, That for the purpose of this Ordinance, any kind of mechanical apparatus or equipment used in connection with the preparation of floor wax either used for the manufacture or packing shall be considered a machinery."

SEC. 2. This Ordinance shall take effect upon its approval.

Enacted, October 11, 1946.

Approved, October 24, 1946.

[ORDINANCE NO. 2978]

AN ORDINANCE IMPOSING LICENSE FEE ON THE MANUFACTURE AND/OR SALE OF "MIKI," "BIJON," "MISUA" AND OTHER KINDS OF SIMILAR PRODUCTS; AND FOR OTHER PURPOSES.

Be it ordained by the Municipal Board of the City of Manila, that:

SECTION 1. *Permit.*—It shall be unlawful for any person or corporation to conduct or engage in the manufacture and/or sale of "miki," "bijon," "misua" and other kinds of similar products, without first having obtained a permit from the City Health Officer duly approved by the Mayor of the City of Manila.

SEC. 2. *License fees.*—For every license granted under the provisions of this Ordinance, there shall be paid a quarterly license fee according to the schedule prescribed below based on the gross sales and receipts realized during each calendar quarter.

Class	Quarterly gross sales	Quarterly license fee
A	Over	P5,000.00
B	P4,000.00 to	5,000.00
C	3,000.00 to	3,999.99
D	2,000.00 to	2,999.99
E	Less than	2,000.00

PROVIDED, That for the purpose of this Ordinance the words "manufacture and/or sale of "miki," "bijon," "misua" and other kinds of similar products shall mean those that manufacture and sell their finished products or those whose principal business is the sale of "miki," "bijon," "misua" and other similar products.

SEC. 3. *Submission of gross sales.*—For the purpose of fixing the rate of license fee on the business specified in this Ordinance, the owner or manager thereof or their representatives are required to render a complete return of their quarterly gross sales and receipts without any discount whatsoever and submit the same to the City Treasurer at the end of each calendar quarter, or as soon thereafter as possible, but not later than the twenty-fifth day of the first month of the following quarter. The City Treasurer shall, upon verification of the gross sales and receipts made by the taxpayer concerned, fix the amount of the tax to be collected for the business required from the owner or manager, or their representatives.

the payment of the corresponding quarterly tax thereon as scheduled in section two which shall be effected not later than the twenty-fifth day of the first month of the following quarter: PROVIDED, That it should be understood that gross sales and receipts shall mean the actual gross sales made to any given customer and it shall not be construed to mean in any manner net sales.

In case, however, that the owner or manager of the business herein above mentioned will close his business before the end of the quarter, the license issued to him for that purpose corresponding to the immediately preceding quarter shall be surrendered to the Office of the City Treasurer within five days immediately at the closing of the business with a statement of the gross sales and receipts realized by the business from the first day of the calendar quarter up to the date of closing which has not been reported in his previous return of sales and receipts.

SEC. 4. *Repealing clause.*—That part or parts of the ordinance of the City of Manila, inconsistent with the provisions of this Ordinance, are hereby repealed.

SEC. 5. *Effectivity.*—This Ordinance shall take effect upon its approval.

Enacted, October 11, 1946.

Approved, October 24, 1946.

[ORDINANCE No. 2979]

AN ORDINANCE CLASSIFYING ESTABLISHMENTS FOR THE MANUFACTURE OR SALE OF BEAUTY PARLOR AND HAIR WAVING EQUIPMENT, AND IMPOSING LICENSE FEES THEREFOR, AND FOR OTHER PURPOSES.

Be it ordained by the Municipal Board of the City of Manila, that:

SECTION 1. *License.*—No person or entity shall conduct or engage in the business or trade of manufacturing or selling beauty parlor and hair waving equipment without first obtaining a license therefor from the City Treasurer.

SEC. 2. *Fees.*—For every license granted as herein required there shall be charged the following quarterly license fees based on the quarterly gross sales as per schedule below:

Class	Quarterly gross sales		Quarterly license fee
A	over	₱10,000.00	₱150.00
B	₱7,500.00 to	9,999.99	100.00
C	5,000.00 to	7,499.99	75.00
D	Less than	5,000.00	50.00

SEC. 3. *Submission of gross sales.*—For the purpose of fixing the rate of taxation on the business or occupation herein above mentioned, the owner or owners thereof or their representatives are required to render complete return of their quarterly sales and submit the same to the City Treasurer at the end of each calendar quarter, or as soon thereafter as possible, but not later than the twenty-fifth day of the first month of the following quarter. The City Treasurer shall, upon verification of the gross sales and receipts made by the taxpayer concerned, fix the amount of the tax to be collected for the business required from the owner or owners or their representative the payment of the corresponding quarterly tax thereon which shall be effected not later than the twenty-fifth day of the first month of the following quarter.

SEC. 4. *Repealing clause.*—That portion of section 703 of the Revised Ordinances as amended, which are inconsistent with the provisions of this Ordinance, are hereby repealed.

SEC. 5. *Penalty.*—Any person, company or corporation who shall violate any of the provisions of this Ordinance shall, upon conviction thereof, be punished by a fine of not more than two hundred pesos or by imprisonment of not more than six months or by both such fine and imprisonment in the discretion of the court.

SEC. 6. *Effectivity.*—This Ordinance shall take effect on its approval.

Enacted, October 11, 1946.

Approved, October 24, 1946.

[ORDINANCE No. 2980]

AN ORDINANCE IMPOSING A LICENSE FEE ON THE BUSINESS OF DEALERS ON MOTOR VEHICLES AND/OR ACCESSORIES AND OTHER KINDS OF MACHINES, AND FOR OTHER PURPOSES.

Be it ordained by the Municipal Board of the City of Manila, that:

SECTION 1. *License fee.*—No person, entity or corporation shall engage in, exercise, or carry on the trade or business of a dealer on motor vehicles (jeeps, automobiles and trucks) and/or accessories, and other kinds of machines, such as tractors, road-rollers, bulldozers, trailers, cranes, plow-machines, pork-lift and/or its accessories without first having obtained a license to do so. Such license shall be issued by the City Treasurer

who is authorized to charge and receive therefore as license fee the following amount based on the actual quarterly gross sales and receipts of the business during a calendar quarter on the last day thereof or immediately thereafter as possible but not later than the 25th day of the first month of the quarter next immediately following, as scheduled below:

Class	Quarterly gross sales		Quarterly license fee
1	Over	₱50,000.00	₱750.00
2	₱45,000.00 to	50,000.00	600.00
3	40,000.00 to	44,999.99	500.00
4	35,000.00 to	39,999.99	450.00
5	30,000.00 to	34,999.99	400.00
6	25,000.00 to	29,999.99	350.00
7	20,000.00 to	24,999.99	300.00
8	Less than	20,000.00	200.00

SEC. 2. *Submission of gross sales.*—For the purpose of fixing the rate of license on the business specified in section one of this Ordinance, the owner or manager thereof or their representatives are required to render a complete return of their quarterly gross sales and receipts without any discount whatsoever and submit the same to the City Treasurer at the end of each calendar quarter, or as soon thereafter as possible, but not later than the twenty-fifth day of the first month of the following quarter. The City Treasurer shall, upon verification of the gross sales and receipts made by the taxpayer concerned, fix the amount of the tax to be collected for the business, require from the owner or manager, or their representative the payment of the corresponding quarterly tax thereon as scheduled in section one hereof which shall be effected not later than the twenty-fifth day of the first month of the following quarter: PROVIDED, That it should be understood that gross sales and receipts shall mean the actual gross sales made to any given customer and it shall not be construed to mean in any manner net sales.

In case however, that the owner or manager of the business herein above mentioned will close his business before the end of the quarter, the license issued to him for that purpose corresponding to the immediately preceding quarter shall be surrendered to the Office of the City Treasurer within five days immediately at the closing of the business with a statement of the gross sales and receipts realized by the business from the first day of the calendar quarter up to the date

of closing which has not been reported in his previous return of sales and receipts and the corresponding fee therefor shall be paid.

SEC. 3. *Penalty.*—Any person or corporation which shall violate the provisions of this Ordinance shall upon conviction thereof be punished by a fine of not more than two hundred pesos or by imprisonment for not more than six months or by both such fine and imprisonment in the discretion of the court.

SEC. 4. *Repealing clause.*—The whole or part of any existing city ordinance, which is inconsistent with the provisions of this Ordinance, is hereby repealed.

SEC. 5. *Effectivity.*—This Ordinance shall take effect on the first day of the following quarter from the date of its approval.

Enacted, October 11, 1946.

Approved, October 24, 1946.

[ORDINANCE No. 2981]

AN ORDINANCE AMENDING SECTION 1107 OF ORDINANCE NO. 1600, KNOWN AS THE REVISED ORDINANCES OF THE CITY OF MANILA, AS LASTLY AMENDED BY ORDINANCE No. 2955 RELATIVE TO FEES FOR THE INSPECTION OF STEAM BOILERS, INTERNAL COMBUSTION ENGINES, MACHINERY PROPelled BY ELECTRIC MOTORS AND GAS TANKS OR RECIPIENTS.

Be it ordained by the Municipal Board of the City of Manila, that:

SECTION 1. Section 1107 of Ordinance No. 1600, known as the Revised Ordinances of the City of Manila, as lastly amended by Ordinance No. 2955, is hereby further amended to read as follows:

"SEC. 1107. *Fees.*—The fees for the inspection of steam boilers, internal combustion engines, machinery propelled by electric motors and gas tanks or recipients, shall be as follows:

<i>Boilers</i>	
Under ten horsepower	₱30.00
Ten to less than thirty horsepower	50.00
Thirty to less than fifty horsepower	80.00
Fifty to less than seventy horsepower	110.00
Seventy to less than ninety horsepower	150.00
Ninety to one hundred horsepower	200.00
For each horsepower or fraction hereof, in excess of one hundred horsepower	1.00

The above rating of boilers shall be based on ten square feet (0.9289 square meters) of heating surface for one boiler horsepower.

No extra charge shall be made for the inspection on the machinery and other apparatus connected with this boiler.

Internal-combustion engines

Under ten horsepower	P20.00
Ten to less than thirty horsepower.....	40.00
Thirty to less than fifty horsepower.....	60.00
Fifty to less than seventy horsepower.....	80.00
Seventy to less than ninety horsepower.....	100.00
Ninety to one hundred horsepower.....	120.00
For each horsepower or fraction hereof, in excess of one hundred horsepower.....	0.50

The above rating or horsepower shall be based on the horsepower fixed by the factory or maker of the machine.

No extra charge shall be made for the inspection of the machinery or other apparatus propelled by this internal-combustion engine.

Machinery or apparatus propelled by electric motors:

For each unit

One-half to one horsepower.....	P10.00
One to less than five horsepower.....	20.00
Five to less than ten horsepower	30.00
Ten to less than twenty horsepower	40.00
Twenty to less than thirty horsepower	50.00
Thirty to less than forty horsepower	60.00
Forty to less than fifty horsepower	70.00
Fifty to less than sixty horsepower	80.00
Sixty to less than seventy horsepower	90.00
Seventy to less than eighty horsepower....	100.00
Eighty to less than ninety horsepower	110.00
Ninety to less than one hundred horsepower	120.00
One hundred horsepower and above	130.00

The sum or total number of horse power of machinery or apparatus of less than one-half horsepower capacity shall be charged in accordance with the above schedule.

The above horsepower rating of machinery shall be based on the number of horsepower fixed on the propelling electric motor.

Gas tanks or recipients

For every 27 cubic feet or fraction thereof. P10.00"

PROVIDED, That, notwithstanding the provisions of section 1090 of the Revised Ordinances of the City of Manila, the publication of notices in the newspapers for the installation of boilers, internal combustion engines, machinery propelled by electric motors and gas tanks or recipients in any place

or area within the City permitted in the Zonification Ordinance, shall be dispensed with."

SEC. 2. This Ordinance shall take effect upon its approval.

Enacted, October 15, 1946.

Approved, October 28, 1946.

[ORDINANCE No. 2982]

AN ORDINANCE PRESCRIBING THE POWERS AND DUTIES OF THE SUPERINTENDENT OF THE CITY LIBRARY AND PROMULGATING RULES AND REGULATIONS FOR THE OPERATION THEREOF.

Be it ordained by the Municipal Board of the City of Manila, that:

SECTION 1. *The City Library; its scope.*—"City Library," as used in this Ordinance, shall be understood to refer exclusively to the main library of the City of Manila now located and maintained at the Balagtas Elementary School for the use of the public and such branches as have already been established or may hereafter be established, and excludes the libraries of the various Departments and offices of the Government of said city for the exclusive use of such departments and offices.

SEC. 2. *The Superintendent of the City Library; his powers and duties.*—The City Library and all its branches shall be under the control, management and administration of a Superintendent who shall exercise the following powers and duties under the general supervision of the City Mayor:

(a) Preservation of all books, magazines and all other library materials and equipment belonging to the City Library.

(b) Distribution of reading facilities to the different branches of the City Library and, so far as practicable, extension of such facilities by recommending the opening of such additional branches as the needs and increasing advancement of the masses demand.

(c) Supervision over the use by the public of the library reading facilities of the City Library.

(d) Acquisition of library reading facilities by purchase, donation or gift of additional books and other library materials to meet the needs and purposes of the City Library.

(e) Adoption of a system of classifying, cataloging, filing, indexing, labeling, and

preparation for use by the public of all library reading facilities in consonance with modern methods of library science.

(f) *Procurement and collection of books, periodicals, papers, documents, and manuscripts relating to the history of the City of Manila.* Such materials shall be properly preserved as a historical collection devoted exclusively to that purpose.

SEC. 3. *Rules and regulations governing the operation of the City Library.*—(a) *Lending and reading room.*—Book lending and reading room facilities shall be maintained in the City Library.

(b) *Borrowers.*—Any *bona fide* resident of the City of Manila who is of age, may apply for the privilege of borrowing books from the City Library by filing an application on a form prescribed by the Superintendent of the City Library. A minor may likewise apply for the same privilege with the written consent of his father, mother, or guardian.

(c) *Cards.*—Two library cards shall be issued to each person whose application for library privilege has been approved. Such cards shall be renewable every year upon filing of a new application. Lost cards shall be reported immediately and duplicate cards may be issued only after thirty days upon payment of ten centavos for each duplicate card.

To entitle a borrower to draw additional books, not exceeding two at any one time, two additional cards may be issued to him upon written application to that effect and upon payment of a fee of ten centavos for each card, in addition to the sum of ten centavos for each use of each card.

(d) *Time.*—Books drawn on borrower's cards may be retained for fifteen days, renewable for a like period. Renewals may be made by taking the book to the library on or before the same is due, or by a written request which must reach the librarian on or before the date the book is due, giving the title, author, call number, and the date the book is due. Should it become necessary for the library to recall any book loaned to a borrower before it falls due, the book shall be returned immediately upon demand.

New books may only be loaned for one week, renewable for another week. Renewals shall not be allowed if reservations have previously been made by other borrowers.

(e) *Fines.*—For each book not returned on time, a fine of five centavos, including Sundays and holidays, shall be charged for each

day of delinquency, and a cardholder who has once incurred fines shall not be allowed to draw books from the library until all fines shall have been paid: *Provided*, That the total amount of fine shall not exceed the cost price of the book. A fine due and unpaid to one branch of the City Library shall debar the delinquent borrower from the use of books in other branches thereof.

(f) *Lost and damaged books.*—It shall be the duty of the borrower concerned to report promptly the loss of or damage to any book loaned to him and to pay for such loss or damage within seven days after the submission of his report. A fine of five centavos a day shall be charged against him until the book or the damage is paid for, the period to be computed from the date the book is due: *Provided*, That the borrower shall return the book if subsequently recovered, and he shall be entitled to a refund of the cost of the book but not of the fines.

(g) *Reserved books.*—Books may be reserved for a period not exceeding three days from the receipt of notice of approval of a written application to that effect and upon payment of a reservation fee of five centavos.

(h) *Guarantors.*—Each application shall be accomplished by a guaranty signed by a guarantor who shall assume joint and several liability with the applicant for the cost of any book lost, for damage to any book loaned to such applicant, and/or for administrative fines due for failure of the latter to return such book on time.

The following shall be eligible to act as guarantors:

(1) Government officials or classified Civil Service employees except those of the City Library.

(2) Employees of the classified Federal Service.

(3) Directors, registrars and principals of schools or colleges recognized by the Government.

(4) Officers of the Philippine or U. S. Army and Navy.

(5) Members of firms or well-known commercial houses or corporations.

(6) Persons of age whose names appear in the printed local directory.

(7) Well-known land owners residing in the district to the satisfaction of the district librarian concerned.

(i) *Deposits for library privileges.*—Notwithstanding the rule requiring a solidary guarantor for an applicant for library privileges, library cards may be issued to any *bona fide* resident of the City of Manila upon

making a deposit of ten pesos (₱10) for each card, but the number of cards that may be issued to such resident shall not exceed the number allowed by subsection (c) hereof. Such deposit shall be refunded upon the surrender of the cards issued and after all outstanding obligations incurred by the borrower shall have been deducted. No deduction whatsoever shall be made from said deposit while the borrower still continues borrowing books.

(j) *Library hours.*—The library shall be available for use on regular working days at such hours as may be fixed by the City Mayor. The library reading rooms shall also be open on Sundays and holidays, except on such holidays the observance of which does not justify the opening of the library in the discretion of the City Mayor.

(k) *Personal belongings.*—Personal belongings of library patrons, such as books, portfolios, hats, etc., shall not be brought inside the library, but shall be deposited in a check room or stand provided for that purpose: *Provided*, That in cases where books or reading materials are needed as reference in connection with the use of books and reading materials owned by the library, such books or reading materials brought by patrons may be taken inside the library upon previous approval of the librarian or desk attendant.

(l) *Inspection of books, etc.*—The library personnel may inspect books and other reading materials being brought out of the library by library patrons upon reasonable suspicion that property of the library is being surreptitiously taken away.

(m) *Books presumed in good condition.*—Circulating books shall be inspected by the borrowers before they are drawn and shall be presumed to be in good condition unless the contrary is brought to the attention of the librarian or desk attendant who shall make proper notation thereof before the borrower departs with the book.

(n) *Change of address.*—Any cardholder changing his address shall immediately notify the librarian of his new address.

(o) *Contagious diseases.*—When a contagious disease breaks out in the house of a registered borrower who has in his possession books belonging to the library, he shall notify the library authorities of such fact, and such books shall be returned through the Department of Health and Welfare for proper disinfection.

SEC. 4. *Reference and reading room service.*—(a) The City Library and each branch

thereof shall maintain a reference and reading room which shall be open to the public during library hours.

(b) Any person of good deportment and habits may use the reading room.

(c) The reading room shall not be used for lounging, loud conversation, or sleeping purposes. No one shall be allowed to eat or smoke in the reading room.

(d) Books, magazines, newspapers, and other reference materials shall not be allowed to be taken out of the reading room: *Provided*, That upon previous approval of the Superintendent of the City Library such books or reading materials may be taken outside the reading room for official use by any branch or office of the Government for a period not exceeding one week.

SEC. 5. *Forfeiture of library privileges.*—Any damage or injury to any book or library reading material or portions thereof resulting from carelessness or negligence of the borrower, and any intentional act of mutilating, tearing or defacing of such library reading materials, shall be a ground for a permanent forfeiture of library privileges of the borrower or person concerned.

SEC. 6. *Issuance of rules and regulations.*—For the proper enforcement of the rules and regulations contained in this Ordinance and for the efficient administration of the City Library, the Superintendent of the City Library may, from time to time, with the approval of the City Mayor, issue such library rules and regulations as the exigencies of the service may require.

SEC. 7. *Effectivity.*—This Ordinance shall take effect upon its approval.

Enacted, October 15, 1946.

Approved, October 28, 1946.

[ORDINANCE NO. 2983]

AN ORDINANCE AMENDING SECTIONS 1253, 1255, 1256 AND 1257 OF ORDINANCE NO. 1600, KNOWN AS THE REVISED ORDINANCES OF THE CITY OF MANILA, AS AMENDED.

Be it ordained by the Municipal Board of the City of Manila, that:

SECTION 1. Sections 1253, 1255, 1256 and 1257, of Ordinance No. 1600, known as the Revised Ordinances of the City of Manila, as amended, are hereby further amended to read as follows:

"SEC. 1253. *Certificates of registration—Fees.*—Upon satisfactory proof of ownership being sub-

mitted, it shall be the duty of the city treasurer promptly to register all large cattle presented for registration and to issue certificates, collecting therefor the sum of three pesos for each animal registered. A separate certificate shall be issued for each animal registered. Whenever there is suspicion that the person offering the animal for registration is not the true owner, the city treasurer shall refuse registry until investigation be made; after which he shall make his decision.

"SEC. 1255. *Contents of certificates.*—The certificates of registration provided for herein shall set forth the name and address of the owner, and a complete description of the animal registered, showing the brands, class, sex, age and other marks of identification. The Class A certificate shall, when properly issued, be *prima facie* evidence that the animal registered is the property of the person designated as its owner. The Class B certificates shall afford no presumption as to ownership, and shall bear, conspicuously printed in English and Spanish across the face thereof, the words "Not good outside the City of Manila." Holders of Class B certificates may secure Class A certificates by surrendering their Class B certificates and having the animal or animals branded in accordance with section twelve hundred and fifty-two hereof and paying the fee of ten pesos for each certificate so taken out.

"SEC. 1256. *Duplicate certificates.*—The city treasurer may, upon proof satisfactory to him that the original has been lost, stolen, or destroyed, issue a duplicate certificate of registration, at his discretion, upon payment to him of a fee of three pesos.

"SEC. 1257. *Certificates of transfer.*—All transfers of ownership of large cattle shall be registered with the city treasurer, and a certificate shall be issued to the new owner under the same conditions as prescribed for original registrations, except the requirements regarding branding. The fee for the registration of transfers shall be three pesos. It shall be the duty of the vendor to deliver to the purchaser the original certificates of registration and all certificates of intermediate transfers issued under this Ordinance or law. On all certificates of transfer reference shall be made to the original certificate issued for the animal and to all subsequent transfer certificates whether issued under this Ordinance or under law. No transfer of large cattle

shall be valid unless registered in accordance with this Ordinance."

SEC. 2. This Ordinance shall take effect upon its approval.

Enacted, October 28, 1946.

Approved, November 1, 1946.

[ORDINANCE NO. 2984]

AN ORDINANCE AMENDING SECTIONS 1, 2, AND 3 OF ORDINANCE NO. 2347 BY REQUIRING ALL CLASSES OF THEATERS OR CINEMATOGRAPHS IN THE CITY OF MANILA TO REGISTER THEIR SEATING CAPACITY WITH THE CITY TREASURER AND PROHIBITING THE SALE OF TICKETS IN EXCESS OF THEIR SEATING CAPACITY AT ANY PARTICULAR TIME.

Be it ordained by the Municipal Board of the City of Manila, that:

SECTION 1. Sections 1, 2, and 3 of Ordinance No. 2347 are hereby amended so as to read as follows:

"SECTION 1. All classes of theaters or cinematographs in the City of Manila are hereby required to register their seating capacity with the City Treasurer.

"SEC. 2. The sale of tickets in all classes of theaters or cinematographs in excess of their registered seating capacity at any particular time is thereby prohibited.

"SEC. 3. Any owner, agent, or manager of theaters or cinematographs, who sells tickets for standing space or permits patrons to witness screening while standing, shall, upon conviction, be punished by a fine of not exceeding two hundred pesos or by imprisonment for not more than six months, or by both such fine and imprisonment, in the discretion of the Court."

SEC. 2. This Ordinance shall take effect upon its approval.

Enacted, October 21, 1946.

Approved, November 2, 1946.

HISTORICAL PAPERS AND DOCUMENTS

Remarks made by President Manuel Roxas and United States Ambassador Paul V. McNutt on the occasion of the exchange of ratifications of the Treaty of General Relations between the Republic of the Philippines and the United States on October 22, 1946:

President Roxas' remarks:

Mr. AMBASSADOR:

I am happy to exchange with you the instruments of ratification of our respective governments of the treaty of general relations signed on July 4, an act that at once makes effective the provisions of one of the truly historic documents of our times. Although clothed in legal language, this treaty has a great and immediate meaning in the life of our two countries. This is the last formal act in the drama of independence. We are here ratifying the establishment of formal relations between the Philippine Republic and the United States of America. This is a testament of faith of the American people in us and in our future. This is the testament of our faith in our freedom, in our nationhood and in democracy itself. I take this treaty as a basic charter of friendship between our two governments and, of course, our two peoples. It has been said before, but it can be stated again, that no such charter is really necessary. That friendship is secure. Yet in this treaty we can hold up before the eyes of all the world the example of a firm and equal relationship for all to see. The Vice President who is concurrently my Secretary for Foreign Affairs and you, Mr. Ambassador, have worked long and hard to effect this particular document. Our respective peoples have worked long and hard to effect the particular relationship that exists between them. May that relationship continue and expand in the years to come.

Ambassador McNutt's remarks:

I thank you very much, Mr. President, for what you have just said.

By this Act, and by the proclamations about to be made by you and by the President of the United States, there will be completed the chain of events which bring into effect the first treaty between my country and this Republic. These acts and ceremonies, together with the actions of our two Senates, represent the method sanctioned by the law and custom of nations whereby two independent sovereign states, by the exercise of their own free will, enter into agreements between themselves and make those agree-

ments known to the world. But our actions would be meaningless, empty formalities if they did not signify a true meeting of the minds and a genuine determination loyally to abide by what is written in this document.

In a sense this first treaty between our countries is unimportant, for it merely gives legal force and effect to a political relationship between our two countries which both have long desired and to which both long ago agreed through action of their legislative bodies. But in a larger sense it is very important. For it is the proof, to ourselves and to the world, that the will of the peoples, as expressed by their legislatures, prevails. Two sovereign nations, by decision of their duly elected legislators and Chief Executives, have agreed to live together as close relatives within the family of nations.

There will be other treaties and agreements between the United States and the Republic of the Philippines, regulating specific arrangements and settling a multitude of questions which, between nations as between members of a family, have to be settled from time to time.

This treaty of General Relations, whose instruments of ratification we are exchanging at this moment, is an earnest of our intent and determination to regulate all our relations by free agreement, freely arrived at.

On the occasion of the exchange of ratifications of the Treaty of General Relations between the Philippines and the United States, Vice President Elpidio Quirino on October 22, 1946, issued the following press statement:

The exchange of instruments of ratification for the broad treaty of general relations between the United States and the Philippines today is a signal occasion for my Government. I am proud to have participated in the preparation of the first treaty that the Republic of the Philippines has signed with another sovereign nation. It lays down the legal framework around which will develop and grow the great community of interest which will forever bind two peoples and two nations. I do not share the fear entertained by some that this may prove to be an unequal partnership. Although we are a small nation and the United States is a great and powerful one—one of the greatest on the earth—we have every reason to believe and to expect that we will be regarded as a nation on an equal footing with all the great and small nations of the world. The fact that the United States so regards us, as set forth in this historic document which we have ratified today, is a guarantee that we will be so regarded by the other nations of the earth. This ceremony today signalizes all but the

final ceremonial act in the establishment of relations between our two countries, which will be at the heart of our fundamental pattern of relations with all the nations in the world. This nation subscribes to the same principle to which the United States is adherent—the principle of the most favored nation. Except for the special economic provisions entailed in our Executive Agreement, which are designed to meet a special situation, we invite all the countries of the world to enter into the same kind of relationship with us that we have entered into with the United States.

We are not entering into a new arrangement with the United States. Basically, our relationship remains as intimate as it ever was. But now we are equals rather than guardian and ward. This recognition of unmitigated equality which we have signed and sealed today signalizes a deeper and stronger tie than ever existed in the past.

Statement of President Roxas on signing the Rehabilitation Finance Corporation legislation on October 29, 1946:

In approving the three bills which together provide for the establishment and the capitalization of the Rehabilitation Finance Corporation, the Government is moving forward with its program to overcome as much as possible the inherent inertia which is holding back full-scale rehabilitation and reconstruction. The Government is moreover taking the lead in the planned development and expansion of the national economy.

Our goal is, of course, an independent and broad-gauge economy, geared primarily to meet the consumption needs of our people, and integrating our national resources and capabilities so as to make the maximum use of our national resources and capabilities so as to make the maximum use of our national genius and potentialities—to produce most what we can produce, but to produce best what we need most.

The Rehabilitation Finance Corporation is designed to provide credit facilities for all who wish to undertake the rehabilitation of war-destroyed enterprises and the expansion of our industrial potential. Where private enterprise has neither the capacity nor the means of initiating these endeavors, government corporations and entities are given the authority in this legislation to take the lead in this vital work.

The whole purpose and function of the Rehabilitation Finance Corporation is to permit our own people the greatest possible opportunity and to give them every encouragement to participate in the national economic life on every

front and in every field. Every inducement will be given to Filipinos to take advantage of the facilities here made available by law.

But it is primarily the responsibility of the people themselves and of Philippine private enterprises to take advantage of the opportunities offered. The Government cannot and will not engage in economic mollycoddling or wet-nursing beyond the limits of sound economic practice. Nor is this legislation intended to provide operating subsidies for any enterprise. Every undertaking financed by the Rehabilitation Finance Corporation must be self-liquidating and must hold forth promise of profit in the free market place of economic endeavor. Capital will be provided, but losses will not be subsidized. Every enterprise must be able to stand on its own feet under the hardy conditions of free competition in a free and open market. The Rehabilitation Finance Corporation will not be a party to the protection of monopoly at the expense of the consuming public.

As I said when I proposed this legislation to the Congress, we face a magnificent opportunity. It is up to all of us to see that this opportunity is realized. Everything will depend on the administration of this legislation. The men who will direct this vast enterprise must be above personal consideration as well as above politics. This is an acid test for our nation.

Chinese Minister Chen Chih-Ping's address and President Roxas' reply at the presentation of credentials by the former to the latter at Malacañan on the afternoon of October 3, 1946:

Minister Chen's address:

Mr. PRESIDENTE,

I have the honor to place in Your Excellency's hands the Letters by which the President of the National Government of the Republic of China accredits me near the Government of the Republic of the Philippines in the quality of Envoy Extraordinary and Minister Plenipotentiary of China.

It is extremely gratifying to me to have been charged with the establishment of a Legation of China in the Philippines and I consider it a great honor for me to be the first one to represent the Republic of China near Your Excellency's Government.

Besides, I draw great satisfaction from my coming into close contact with the Philippine people, for whose industry and heroism I have the profoundest admiration, and witnessing the fruitful efforts they are making under Your

Excellency's leadership in the development of their country and in the attainment of their high ideals and aspirations.

All my activities will be directed toward strengthening the bonds of friendship based on mutual respect and good will which unite our two countries. And it is my firm belief that the close cultural and economic relations which have bound together our two peoples for many decades and our common objective of helping to build a lasting peace in the Far East will render my mission particularly agreeable.

May I be permitted, Mr. President, to entertain the hope that in the accomplishment of my task I shall be able to count on the benevolent cooperation and support of Your Excellency and the Philippine Government.

President Roxas' reply:

Mr. MINISTER,

I am happy to receive you on behalf of the Government of the Republic of the Philippines as first Envoy Extraordinary and Minister Plenipotentiary of the Republic of China to the Philippines. It is my earnest desire that in appreciation of the mutually beneficial aims sought by your Government in setting up your diplomatic representation here, the Philippines may soon be able to establish a Legation in your country.

The peoples of our two countries are bound together by many ties. Geographically we are next-door neighbors and for centuries your people have contributed by their industry and thrift to our economic life. In the recent war, we fought together for the same causes against the onslaught of the common enemy and I have only words of admiration for the indomitable courage with which your people for eight long years bore the brunt of aggression, under the gallant leadership of Generalissimo Chiang Kai-Shek.

I have no doubt that the Philippines and China will continue their fruitful collaboration, based on mutual respect and understanding, toward their common goal of lasting peace and prosperity for the peoples of the Orient and of the world.

In the worthy mission of strengthening the bonds of friendship between the Republic of the Philippines and the Republic of China, you may count on the whole-hearted cooperation of this Government and on my own.

You have my best wishes, Mr. Minister, that your work among us will redound to the mutual benefit and advantage of our two countries.

British Minister Harry Linton Foulds' address and President Roxas' reply at the presentation of credentials by the former to the latter at Malacañan on the afternoon of October 30, 1946:

Miniser Fould's address:

Mr. PRESIDENT,

The King, my August Sovereign, whose Royal Letter accrediting me as His Majesty's Minister to the Republic of the Philippines I am about to present to you, has commanded me to renew to Your Excellency the friendly greetings and good wishes which He recently conveyed to you through His Special Ambassador, the Right Honourable Lord Killearn, and to express His Majesty's earnest hope for the happiness and prosperity of the Philippines.

In accordance with the instructions which I have received from my Government, I shall make it my constant endeavour to maintain and strengthen the good relations which have so happily been established between the British Commonwealth and the new Republic, in the firm belief that by so doing I shall be fulfilling my high duty. I feel sure, Mr. President, that for this purpose I may count upon full encouragement and help from yourself and the members of Your Excellency's Administration.

I count myself particularly honoured to have been chosen as the first British Minister at Manila. But I am happy to reflect that this is only a new phase in British official relations with the Philippines which, apart from the violent interruption caused by the Japanese attack, have subsisted continuously and harmoniously since the first opening of a British Consulate at Manila in the year 1844. Even before that date, British merchants had come to the Philippines and had set up business houses which are still well known in the country and are still, despite the recent war, carrying on their peaceful avocations. It is my sincere hope that these trade relations may long prosper and develop the mutual advantage of our two countries.

May I conclude by saying that I have returned to the Philippines as an old friend, some of whose happiest years were spent here, and that I look forward to the renewal of many old associations as well as the formation of new ones.

I beg to express to Your Excellency my most sincere and confident hope for the renewed prosperity of this beautiful country and its friendly people.

President Roxas' reply:

Mr. MINISTER:

On behalf of the Republic of the Philippines, I am happy to receive you as the first Envoy Extraordinary and Minister Plenipotentiary of His Britannic Majesty to the Republic of the Philippines. I am particularly happy that you who have spent many years among our people has been chosen to represent His Majesty's Government in this country. To reciprocate the mutually beneficial aims sought by your Government in setting up diplomatic representation here, it is my hope that we may soon be able to establish a legation in your country.

Our two countries are linked by historical, economic and cultural ties. As early as the 18th century, our two peoples engaged in commercial intercourse. Today British business houses established in the Philippines are an important factor in our commercial life. The same language spoken in your country is spoken throughout the length and breadth of the Philippines. Your philosophy of government came to us as a precious legacy from the great Republic of the United States of America, herself an heir to the Anglo-Saxon principles of liberty and justice. It is my sincerest desire that the ties that bind our two countries may become stronger with every passing year.

Throughout our long struggle for freedom, our leaders have drawn unfailing inspiration from the ideals and principles enunciated by Anglo-Saxon political thinkers. The Magna Charta, your immortal contribution to the cause of human freedom, is deeply imbedded in the Filipino soul and its principles form the mainstay of our political faith.

We admire your people for their indomitable courage and tenacity. The Battle of Britain during the recent conflict is recalled by us, as by all free men everywhere, as having been waged by you in defense of human liberty. Britain played her part nobly and well. It is hoped that the great struggles of the last war in which we were allies in fact will bind us closer than ever before and that our two countries will cooperate towards the promotion of peace and understanding among all the nations of the earth.

In directing your constant endeavors to maintain and strengthen the ties of friendship which have so happily been established between this Republic and the British Commonwealth, you can count on the full support of my Government.

You have my best wishes, Mr. Minister, for a pleasant sojourn with us. I feel sure that your mission will be fruitful and bring mutual benefit and advantage to our two peoples.

Speech delivered by President Manuel Roxas at the luncheon given in his honor by the members of the Philippine Bar Association at the Manila Hotel on October 12, 1946:

FELLOW LAWYERS:

I am always glad when I can start a speech with the word "fellow." It establishes a feeling of intimacy, a community of interest. To say "fellow lawyers," is to say much more than "fellow students" or "fellow stamp collectors." Law is not only a profession, it is a ministry; it is almost a way of life. It is certainly a way of thinking. I have not spent much time in the active practice of law, but I have never stopped studying law. I have participated in the writing of a good deal of law; and I have administered a good deal more. Law has been my hobby as well as my profession. I have given much study and thought, as you all have, both to the philosophy and to the practice of law. Today I shall speak to you a little concerning theory but more extensively concerning the application of law in our courts and in the practice of our profession.

But first, let me address a few frank and pointed words to you as an organization. The practice of law is one of the oldest organized professions in the world. Lawyers, being more perceptive than most people, saw the necessity of organizing their own numbers long before there was such a thing as a labor union, a chamber of commerce, or even a medical association. Lawyers have long recognized and recognize today the necessity of having a responsible body to maintain, elevate, and protect the ethics of their profession. It is essential to have a lawyers' association, because the practice of law is in a sense a vital public utility, and the public must certainly be protected against fraud, deception and malpractice. Lawyers, knowing this, have undertaken from the very earliest days of their profession, to police themselves through the medium of bar associations. Because lawyers are officers of the court, a bar association can and should become a useful and organic adjunct to the judicial system. It should represent the combined conscience of the legal profession and indirectly, of the courts as well.

It is for this reason that I view with some regret the present situation in the Philippines where there are not one, but five lawyers' associations. I feel strongly that there should be but one—a strong, democratic and vigilant organization. I now call upon the members of the bar to bring about a union of their organizations. As many of you remember, there have been submitted, from time to time proposals for an integrated bar which would accomplish, by legislative edict, the consoli-

dation of lawyers' associations. I have not at all made up my own mind about this proposal, but I can hardly imagine that lawyers should have to be required by law to take a step which is so obviously desirable—a step that should be taken voluntarily and without delay.

A bar association has many functions which are well known to you. One concerns me very directly. I should like to be able to consult the bar association on appointments to the judiciary. It has been my purpose from the very start of my administration to make the judiciary an independent, non-political body, completely removed from partisanship or from any consideration or taint of politics. I hope most of you will agree that my judicial appointments have reflected a desire to achieve this goal. It is not always easy, unaided by a public-spirited, representative and high-minded bar association. I should like to inaugurate a regular practice of consulting on judicial appointments not only the Secretary of Justice, but also the Chief Justice and members of the Supreme Court and the bar association. But it is necessary that there be one association and not five. Should I request five bar associations to recommend appointments, or submit to five bar associations proposals for appointments, the result would be such a hodge-podge that it would be less than useful.

In referring to judicial appointments, I have mentioned only one of the many important and desirable functions which a unified bar association can usefully discharge. I might also mention, first the exercise of influence to bring about an elevation of the standards of legal education, and, second, the raising of the standards of the legal profession itself through self-discipline.

But the maintenance of a noble judiciary should be, as I know it is, the most vital concern of the members of the bar. It is an undertaking of transcendental and imperative national need. To my mind the judiciary is the keystone of the national structure, furnishing also the mortar which joins the legislative and the executive branches into the arch of government.

The classic definition of the function of government is to establish law and order among men, to administer justice and to promote the welfare of the people. The judiciary bears a vital responsibility in all three of these major fields. I need not repeat to you how strongly I feel about the reestablishment of law and order in our country. As it stands first in the classic definition, so it stands first in our own particular needs. And for this purpose, the courts must learn to act both swiftly and

surely. This involves, in our particular case, tedious and unremittent labors on the part of court officials. Lost court records must be reconstituted. Backlogs of cases must be cleared up. Yet speedy trial is the keenest edge of the sword of justice. Centuries of experience have taught us that the chief deterrent to crime is not so much the stringency of punishment as the certainty and swiftness of punishment. Thus crime and outlawry were much more rampant in ancient days, when trial by ordeal was practiced, when there were scores of misdemeanors and felonies for which death was the penalty, and when simple theft was a hanging offense. But in those days justice was as slow and uncertain as it was cruel and unreasonable. In the recent move by our Government to stamp out crime in the metropolitan area, I urged the courts to speed up their handling of cases and to make punishment sure as well as stringent under the law. The delays which the law provides to protect the rights of the innocent must not be used to shield the hardened criminal nor to obstruct the path of justice.

In addition to punishing the violators of law, the courts have what I deem an even higher function. That function is the defense of the people's rights. In the modern structure of the state, with the gathering of greater and greater powers into the hands of government affecting every aspect of communal, social and economic life, the protection of those basic rights set forth in our Constitution has come to be one of the most imperative missions of the Judiciary. The distinguishing feature of the democratic way of life and of the democratic system—the aspect which gives democracy its vitality and its survival value—is its emphasis upon the rights of the individual, upon his dignity and worth. Those rights are protected by constitutional limits upon the powers of both the executive and legislative branches of the government. In the non-democratic areas of the world, the people's rights, the rights of individuals, are at the mercy and at the pleasure of Government. Whatever freedoms are possessed by the non-democratic peoples of the earth are enjoyed by grant of government. We reject that concept and that system. To us the rights of the people are inherent and inalienable, sacred rights and freedoms bestowed by our Creator and subject only to such conditions and qualifications as are absolutely necessary for social existence. This is the major point of cleavage between our philosophy and the philosophies of the totalitarian and semi-totalitarian states today. That is our banner; that banner we must never lower. The courts are the vanguard of the forces which must uphold that

banner, which must defend those precious rights. They must be defended zealously, vigilantly, and endlessly, against denial or abuse. The battle for liberty is never over.

The third prong of the trident of government is the protection and promotion of the welfare of the people. In this, too, the courts are called upon to play a vital rôle. In our Constitution, the promotion of social justice and of the welfare of the people is set forth as a basic function of government. The courts must exercise what I would like to call "judicial statesmanship" in extending the protecting cloak of that constitutional mandate over such acts of government as are clearly designed to carry out that objective. The welfare of the great masses of the people must be a concern of the courts coördinately with the rights and freedoms of the individual. To chart the sometimes narrow course between these two guide-posts requires the utmost exercise of judicial statesmanship. I trust that our courts, in examining the boundaries and limits fixed by the Constitution, will find in their wisdom that the enlargement of the area of individual freedom and, at the same time, of the powers of government to promote the social welfare are not inconsistent, but are rather complementary. By doing this the courts will give effect to the liberal philosophy underlying our Constitution.

I have described in broad terms the rôle of the judiciary in our national life. To meet those tremendous responsibilities, men of great learning, unimpeachable integrity and sober wisdom are called for.

I should like to see our judiciary manned by those giants of intellectual and moral character who at one time were the objects of our national awe and respect. I recall such men as our Chief Justices Cayetano Arellano, Victorino Mapa and Manuel Araullo, whose every breath and move while in the public view was as measured as the simple but resounding prose in which they wrote their decisions, whose public and private acts alike were beyond reproach. Those men infused the breath of life into the law and gave to justice the sacred and majestic mien which compels worship and respect from all. I do not think I am stretching or belaboring the point when I say that it is my aim and aspiration to maintain in our courts the majesty and dignity that makes of our judiciary a priesthood and the practice of our profession a noble dedication to righteousness and justice.

Last May, when I was in Washington, I had occasion to pass the huge and imposing building which houses the Department of Justice. The architecture of that

building is of the Greek school, known as ionic, with many wings and a magnificent frieze surrounding the top portion of the building, depicting the growth of the modern concepts of justice. Over the main entrance, there is a sentence which remains today in my memory: "The place of justice is a hallowed place." I can think of no nobler sentiment. I should like to think of that sentiment enshrined over the entire Philippine Islands, a place of justice. I hope our courts may be the repository of a true national reverence for justice. I hope that the Filipino people may come to look upon the courts not as a seat of punishment but as a temple of righteousness where the evil-doer and the malefactor will find his just desserts, and where the righteous man may look for the defense and justification of his righteousness. I can think of no finer nor higher goal for the nation. I can think of no better dedication for the legal profession in the Philippines. As far as I am concerned everything I can do to speed the movement in that direction will be done.

It is certainly redundant for me to refer again at this point to my firm intention of keeping the courts out of politics, and of making appointments without regard to political affiliation. I think the leaders of my own party understand why I must frequently disappoint them with my selections of judges, and why I must prefer a good man to a good Liberal. So much for the courts.

The function of the legal profession is not alone in connection with the courts; lawyers also have an important duty to discharge in connection with the general national welfare.

You have the inherent duty of interpreting to the people in the plain language of the law and of common sense the problems and questions which arise in connection with law and government. A lawyer is obligated not only to know the law but also to translate the law into values and terms which are meaningful to the ordinary citizen.

There is a great deal of misunderstanding concerning the problems and issues that we face. I judge much of that misunderstanding to exist because the people have not been given an adequate interpretation of the concepts involved in those issues and problems.

Phrases and words are being lavishly used without much concern for their basic meaning. Appeals are being made to the emotions and, what is more, to the passions through the erroneous use of certain words and phrases. We hear, for instance, the word "sovereignty" being invoked with almost mystic incantation to curse some of the policies and program being undertaken by

the Government. Yet I doubt whether very many of the persons who use the word "sovereignty" have an accurate comprehension of the term. The dictionary defines "sovereignty" as a state of being absolute and unlimited in power, authority, or independence. The ancient sovereign had those prerogatives. But the whole concept of sovereignty is in a state of flux today. Once sovereignty reposed in the person of the monarch or ruler. Later it was considered to be the possession of the government. But in more recent years sovereignty has come to be recognized in greater and greater areas of the earth as reposing in the people—in all the people. That is the first principle of democracy. Democratic sovereignty is a fundamental authority residing in the people.

The exercise of that authority, however, is a function of judgment and wisdom. In external affairs, it must be exercised within the framework of national advantage and the realities of geographic and political position. Today every nation is in some sense dependent upon others. Although our goal is *one world* in practice, as it is already in fact, we recognize the existence of gravitational groups within the *one world*. Thus the western hemisphere nations accept their security as against Europe and Asia, from the United States. The United States in turn is in many ways dependent upon her sister Republics, both politically and economically. The nations of the Mediterranean and of the Middle East are largely dependent upon British power. Governments of Central Europe are subject to the exercise of Russian influence.

The Great Powers offset each other, and yet are dependent upon one another; it is only collective equilibrium that today permits the maintenance of an uneasy *status quo*. In such a system of balanced forces, the only security for small nations is within the orbit of greater ones: a gravitational arrangement in which the smaller nations exert an influence on the larger, as well as vice-versa. This is the system of regional collective security which we have in the world today. In such a world system true "sovereignty" is freedom of choice, in an empiric sense, in the ordering of a nation's internal and external affairs including the selection of its political attractions in the international field.

In that sense, we in the Philippines have sovereignty in a much fuller sense than most other nations in the world. Certainly, we have more complete freedom than the nations in the Middle Europe, or in Northern Europe, or in the Middle East, or in Asia. We have the right to dispose of our internal affairs as we see fit.

We might even decide in the exercise of our full freedom of choice in foreign affairs, to sever our intimate connections with the United States. Whether such a move is compatible with our national security or with our economic requirements is certainly a matter for our decision. But we have long ago made that decision. We made it most dramatically in the recent war. Our government-in-exile operated under that presumption. The preceding administration continued to carry on that policy without interruption. Both political parties in the recent national election promised the people to adhere without qualification to that program. Because I was and am convinced that such a policy reflects our basic national aspiration and is also the undeniable will of the vast majority of our people, I have continued and will continue that policy with abiding faith in its correctness.

But let us for the moment examine the alternative. Should we cut our ties with the United States, we would rapidly, almost immediately, find that even our area of choice and selection in arranging our internal affairs would be much more restricted than it is today. This would result both from the force of economic circumstances and from the fact that other great nations in our vicinity might be far less scrupulous in the exercise of their interest in our internal affairs than is the United States.

Our general program of economic aid to our own citizens is a national policy supported by our people. We undertake such a program in the certain conviction that our purpose is fair and wise. But our friendship with the United States is an assurance that we can pursue our course without fear of intimidation.

Yes we are free, completely free, even to withhold the grant of equal rights to American citizens in the development of our natural resources. Should we desire to withhold that grant, neither military nor political pressure would be applied against us; yet I would judge such a course extremely unwise. Certainly our judgment on the matter is free; but if our judgment partakes at all of wisdom, it must be guided by considerations of what is best for the country and for the people. I believe that it is best for our people to extend these rights to American citizens for the duration of the Trade Agreement. We will be free at any time to denounce the Agreement and thereby cancel those special rights. But precisely because we have that power, we need not fear the phantoms of disaster which partisanship and prejudice have raised before our eyes. To refuse to comply with this condition of the Trade

Act would cripple our program of rehabilitation. But we have the power to do so. We are free to do so. That is the ultimate test of our sovereignty.

We have the perfect right to determine for ourselves our system of national defense and security. But you will recall that a little more than a year ago, the Philippine Congress by unanimous vote approved the commitment entered into by President Quezon and President Osmeña and sanctioned by the American Congress, for the establishment of military bases here for mutual defense. We have thus made our choice in this matter. Still the United States would not insist on the retention of bases here if we did not desire them to be retained. Recently, the Government of Iceland declined to permit the United States to continue maintaining bases in that country. The United States forthwith agreed to the abandonment of her Icelandic bases. I do not think the United States would deal with us less scrupulously than she has done with Iceland. America has nowhere shown her intention to exact privileges by force of arms or by economic sanctions. But were we to withdraw from the base arrangement with the United States, we would be sacrificing our national security on the altar of a mistaken sense of dignity. We would then be faced by the problem of assuming alone the maintenance of our national security.

National security is an imperative need of all nations. No nation can prosper in an atmosphere of fear. In the troubled condition of the world today, no nation is secure of itself. In whatever direction we look, we see nations in arms. The abandonment by any nation in the Far East of security measures would create a military vacuum which could easily be fatal.

The strength and authority of the United Nations is based completely on the precarious balance of strength and power between the great nations. Any reduction in the military strength of any single power without a concomitant reduction in the power of the others, would upset that balance.

All the peoples of the world look forward with hope and yearning to a progressive international disarmament, to the day when the United Nations as an international organization will possess unquestioned military authority for the enforcement of law among nations. But that day is still far in the future. The organic structure of the United Nations is not yet such as to permit an independent military authority to exist. And so the security which we in the Philippines have as a result of the presence of American forces and bases here is a security in which we should feel for-

fortunate. The establishment and maintenance in the Philippines of American bases, despite their disadvantages—and unquestionably there are disadvantages—are of much greater advantage to us in an immediate sense than to the United States, whose interests in the Orient, as in Europe, are remote rather than immediate. Our best and wisest course is to minimize these disadvantages in so far as practicable without impairing the effectiveness of the security provided us.

Our objective in these defense arrangements is first to insure our own security and sovereignty and second, to aid as best we can in strengthening collective security in this part of the world. The specific agreement we are making is designed to meet these requirements.

It is my considered judgment that by retaining our military ties with the United States, we are serving first of all the interests of the Philippines. If I did not hold that view, I would not lay down that basis of our foreign policy. I wish to assure you, as I have assured the country on numerous occasions, that I have only one basic and guiding rule for our foreign policy as well as for our domestic policy—and that is the enduring interests of the Filipino people. There is no other consideration which has any weight in my mind. I am moved by a single devotion; that devotion is to my own country. I do not believe there is any inconsistency in coupling that devotion with a devotion to the cause of world peace, security, prosperity and freedom for all men. To maintain this policy and to uphold these interests, I have pledged my administration.

I have not intended here today to make an exhaustive or even general analysis of the broad and complex subjects of our foreign relations, our national security, or of the equal rights amendment to our Constitution. I have dealt with these subjects merely to indicate the responsibility of interpretation which you as lawyers bear to the general public and to the nation.

I invite you and all the members of our profession to set aside personal and political considerations, to raise our eyes from the immediate goals and to fix your sights on that distant horizon where lies the future of this great nation. Let us set our course to a high goal, fearlessly and with supreme confidence in our ability to achieve it. We have a tremendous responsibility to our posterity. Let them not say of us that we lacked the strength to carry the load, or shirked the duty to take steps which at the time might have seemed unpopular in some quarters. Unless leadership today is capable of the highest statesmanship in dealing with

our vital problems—irrespective of immediate popular reactions inspired by suspicion and prejudice—that leadership has no right to continue. The duty of leadership today is to insure the permanence of this Republic and to safeguard the freedom and welfare of the people at whatever cost. I am not interested, for myself personally or for my party, to remain in power, merely for the sake of power; I am interested only in serving this nation and its people, and I assure the country that I will pursue that course, come what may.

President Roxas on the evening of October 27, 1946, broadcast over a national hook-up of radio station KZFM the following appeal for support to the annual fund drive of the Philippine Red Cross:

There has recently been a succession of appeals to the Philippine people to contribute to worthy causes. In all the cases of which I have personal knowledge, those causes were deserving ones.

I will speak to you tonight not in behalf of a cause, but rather in support of a national necessity. I am referring to the Philippine Red Cross.

The Red Cross, of course, is not a charity in the ordinary sense of the word; it is rather an essential function which has appealed so deeply to the people of the world that it has come to be recognized by governments and by international agreements. It performs services for men, women, and children of all colors, races and creeds in times of disaster, tragedy or national need. The Red Cross, is in a sense, the very conscience of mankind in action. It is a concrete expression of the fundamental humanitarianism which we all acknowledge as a basic element of our modern civilization. The Red Cross has done much in its long and glorious history to arouse and crystallize that conscience of mankind. The simple symbol of this organization has come to be recognized the world over as a symbol of rescue, of help to the sick, the wounded and the starving, as well as to those weakened or oppressed by disaster. It has also become the symbol of health and sanitation, of medical service. That symbol is now a mark of inviolability and of neutrality. Red Cross workers are recognized by international convention as belonging to no army and to no nation in time of war. That inviolability was unfortunately transgressed during the recent conflict, as we in the Philippines have good reason to know.

Each nation has its own Red Cross, but the Red Cross of each nation is part of the International Red Cross, which preceded even the League of Nations as a truly international body.

Soon the Philippine Red Cross will apply for recognition as an independent Red Cross Society and for membership in the League of Red Cross Societies. Since the inception of the Red Cross movement 82 years ago, one of the basic criteria of nationhood has been the existence in each independent country of an independent Red Cross organization. The attainment of Red Cross recognition lies within our grasp.

Following liberation, the Philippine Red Cross was re-established. While at present it is, as it has been for many years, a chapter of the American Red Cross, we now have a reconstituted Philippine Red Cross, devoted solely to the cause of our people and working on an active program of service in every province of our country.

It is our inescapable duty to maintain and develop this organization so that its service to our people may grow in stature in the years to come.

Financial independence is an indispensable prerequisite of the independence of the Red Cross. I call upon you all, therefore, to support this campaign with your generous contributions and maximum volunteer efforts.

The Chairman of the Philippine Red Cross is Mrs. Aurora Quezon, widow of our late heroic president. She has undertaken this great and humanitarian work because of her deep love for our people. She, and all the many others who are working with her in this fund drive, deserve and should have the unstinted support, cooperation and assistance of the entire population of the Philippines. You are asked to give, in mercy's name. You are asked to give, as a patriot. You are asked to give, as a member of the human family.

Speech delivered by President Roxas on the 10th anniversary of the Boy Scouts of the Philippines in a ceremony in Malacañan on October 31, 1946:

In every established language and in practically every culture, one of the basic and most timeless thoughts which men have arrived at is the fact that the child is the father of the man, that the care and training of the nation's young predetermines the health and vigor of the nation itself.

The totalitarian regimes of Germany, Italy and Japan, which recently threatened the very existence of mankind, paid more attention to the training and conditioning of the youth than to the welfare of adults. One of the unmistakable marks of a totalitarian fascist-state is a compulsory regimentation of that nation's boys and girls. But they are trained in blind obedience, in military drill, in Heiling Hitler, or Viva-ing Il Duce, or in clenching their fist in passionate salute to the national leader. Their

bodies are made strong, and their minds are made weak. They are forced into a single mold of obedience and brutality. Iron discipline is sanctified—discipline for the sake of discipline.

We call such a system cruel and stultifying. We reject it and denounce it. Yet we must recall that such a program brought results, although those results were tragic for the world. We must recognize that this program developed a generation of youths, passionate in their patriotic fervor, blind in their devotion to the Government and to the State. We can, if we will, distinguish the good features of such a system, from the evil, barbaric, and savage features. We can see that unstinting attention to our youth is essential to the development of national vigor, vitality, and virility.

Discarding the elements of regimentation, of mental suffocation and discipline for discipline's sake, we can still appreciate the immeasurable benefits of a youth training program, volunteer in nature, rational in principle, and devoted to the character development of the young instead of to their conversion into blind and obedient robots.

These principles were perceived long ago by a British gentleman by the name of Sir Baden-Powell. In England he founded the Boy Scout movement. That movement has since spread all over the world. There is no nation in the free areas of the earth which does not have a flourishing Boy Scout organization. I am happy in the knowledge that the Philippines has its own vigorous and active Boy Scout group, of which thousands of our young boys are members. I could say the same thing, of course, about the Girl Scouts, but on this particular occasion, I am addressing my remarks to our Boy Scouts who are celebrating this week the anniversary of their founding in the Philippines, and are hailing the acknowledgment accorded them by the International Boy Scout organization, as an independent national Boy Scout movement.

I am deeply gratified by this recognition. It is yet another symbol of our independent national existence. It is not an unimportant symbol. It indicates the coming of age of one of our major youth movements, which can now proceed under its own power and under its own leadership, to do the job which is so essential—the job the Boy Scout movement has been doing with such brilliant success all over the world. That job, as I understand it, is to make upright men out of boys; it is to develop initiative, courage, health, manual skills, and appreciation of nature; and last, but by no means least, to cultivate a spirit of national patriotism and community responsibility. It teaches boys to

live and to work together, to cooperate, to adjust themselves to the necessities of gregarious living, and to make good neighbors.

The Boy Scout laws, as I recall them, pledges young men to honor their parents, to be cheerful, kind, friendly, thrifty and helpful; to love their country; and to reverence their God. I can think of no nobler rules of conduct; I can think of no finer guides for the development of our young. I was pleased indeed to take the Scout oath today when I was inducted as an honorary tenderfoot. I think I value that designation more than the other given to me today as honorary scout president. I like to think of myself as a tenderfoot. As a beginner, starting at the very bottom of the ladder of scouting, I suppose I will have to earn a considerable number of merit badges and to qualify in such things as swimming, first aid, tracking, and forest conservation before I can become a second-class scout. I have had some experience in a few of these fields and will have a little easier time of it, than many of you have had in gaining your ranks in the scouting movement. Being only a tenderfoot, I am sure to make progress. I certainly cannot be demoted.

In any event, and seriously I am proud to be associated with all of you young men of tomorrow. I envy your hopes, your dreams, and your opportunities. The world is yours. Your life is before you; you can make of it what you will. Your Government is determined to provide for you full equality of opportunity. That is one of the functions of government in a democracy—so that every youth, regardless of his economic status, will have an unlimited opportunity to turn his own talents to their maximum advantage, and to achieve the greatest heights of which he, himself, is capable. In this way the individual is given his chance to enter what I have often called “the free market place of competition” and to do his best, to run the best race of which he is capable without handicaps. That is a goal which we have not yet quite reached. In fact we are a considerable way from it. The children of economically underprivileged parents do not today have the same opportunities as the children of wealthier parents. There are still far too many of our young whose capacities must remain undeveloped, for economic reasons. It is my purpose and it is the purpose of your Government to work toward the day when every boy and every girl has every chance that he needs to make the most of the talents which the Lord has given him. There must be equality of educational opportunity. The poor man's son must have the same chance to go through college as the son of the rich.

Whatever steps are necessary to achieve this must and will be taken as soon as we are able. Those who are especially talented, manually or intellectually, must be given every encouragement to develop those talents at the expense of the Government, if necessary. I pledge my efforts in that direction.

The Boy Scout movement is inspired by the same democratic spirit which is our national heritage. It matters not that I am President of the Philippines. I am still only a tenderfoot in the Boy Scout movement. Political and class distinctions are set aside. Each is judged according to his merits and his attainments. Each of you may become an Eagle Scout, if you have the capacity. Napoleon, who was the first military leader to introduce a measure of democracy into an army, told his men in the ranks that each of them carried a marshal's baton in his knapsack, and that there was no private soldier who did not have an opportunity to become a supreme leader if he had the ability. That is the spirit of democratic society. It is the spirit of the Philippine nation.

The fact that the Boy Scout movement is spreading so far and so fast in our country is a reflection of the basic devotion of this nation and of its people to democracy. The Boy Scout movement, as I have said, is a democratic movement. It corresponds in every way to the spirit of democracy. I should think that every young and growing boy would like to be a boy scout; it would please me very much if it were so. But above all, the Boy Scout movement is a volunteer movement. Boys belong to it and join it because they want to join it and belong to it. That is the essential element, the element that distinguishes it so completely and so vitally from the youth movements of Hitler, of Mussolini, and of other totalitarian regimes. And it is the element of free will, of choice and selection that truly distinguishes a democracy from all other forms of human association. When men may, in the exercise of whatever wisdom they have, decided to take one course or another or even in some cases to take no course at all, they are exercising their rights in a democracy. The fact that the Boy Scout movement swells its ranks with young men who want to be scouts makes those ranks happy, willing, and friendly. Those boys learn to adapt themselves to the requirements of cooperative effort the more easily because they have *chosen* to enter into the Boy Scout association.

What is true for boys is also true for men. Your country has made certain decisions with regard to its national and international policies. It is possible that those decisions

are wrong, but those decisions represent our best judgment. We will do our job much better because we have chosen our goals and our directions. It is possible that higher powers or absolute leaders could make our decisions more efficiently for us than we can for ourselves; but in the long run the decisions we make by common consent turn out better because they have the support of the people.

As I look about me and consider all the heavy and difficult problems which our nation faces, I am sometimes discouraged and humbled by the tremendous responsibilities that weigh upon my shoulders. I become impatient. There are not enough hours in the day; there are not enough people to undertake all the labor to accomplish all that urgently cries out to be accomplished. I grow weary and think, sometimes, how much easier it would be to rest and to relax, and to let the stream of events follow the least difficult course. And then I think of our youth, of our boys and girls, and of our young men and young women. Riding through the streets, I see the bright and eager faces of the generation that will inherit our own, and of the generation after that. I feel their determination. I perceive their hopes and I am thrilled by their courage. I am revitalized and inspired, and I know that no matter how far short we fall of our goals, our young will carry on and will reach those goals and establish new goals, even further and higher. I become determined, as I am determined, that this coming generation shall inherit the best world and the best Philippines that it is within our power to endow them. I take new resolution to do what I can, and to encourage others to do what they can to insure peace, security and well-being for our people.

This war has left in its wake some very bitter tragedies. Mothers and fathers have been taken away. Brothers have been sacrificed. Our very children, theoretically inviolable in war, have suffered major casualties. For this I can never forgive our enemies. For this I cannot cease to hate with all my being the thought of war. These young men here and those other thousands and millions scattered throughout the Philippines must not be offered up as a sacrifice to greed, lust for power, or national ambitions. These young of ours must have their opportunity to live in peace and security for the greater glory of mankind. In the name of all of them, I pledge my efforts toward this end. I appeal to all of you who will one day take over the reins of leadership, never to lose hope, never to give up, never to abate your energies in the drive to reach the goal that the world is seeking today. Be a good Scout always; be an eagle Scout all your lives!

On Navy Day, October 27, 1946, President Roxas issued the following statement:

The U. S. Navy has emerged from the last global war as world's greatest and mightiest navy. But its magnificent performance and achievements during the war, in guarding convoys, conveying men and materials to the scattered battlefronts and clearing the waterways for the forces of freedom, it has earned for itself the eternal respect and gratitude of all the world. Today it is the most potent force watching over the peace—a shining symbol of America's supremacy and power.

It is with a deep feeling of admiration, pride and gratitude that, today, I salute the U. S. Navy. It was this navy that brought the forces of liberation to our beleaguered land. And on this navy our young Republic places its hope in the future, as one of the greatest bulwarks of America's power to safeguard the freedom of small nations like ours. May the U. S. Navy live up to its glorious traditions and may it live on to preserve the peace!

Speeches broadcast by United States Ambassador Paul V. McNutt and Philippines Secretary of National Defense Ruperto Kangleon on Navy Day, October 27, 1946:

Ambassador McNutt's speech:

The role of the United States Navy has always been one of the proudest, just as its record has always been one of the most brilliant, in the history of the United States. In the structure of Philippine-American relations, the Navy has been especially prominent, and has played its part in the magnificent manner that we have grown to expect from that great branch of the armed service.

The dawn of Philippine-American associations was heralded by the guns of Commodore Dewey's famous fleet in Manila Bay. The scarred and rusted hulks of the enemy fleet can still be seen in the harbor, lasting evidence of the Navy's early presence in these waters.

Between 1898 and 1941, the Navy played a friendly and constructive role in the Philippines, maintaining watch and establishing for itself an enviable record of smartness and efficiency.

Recently, only very recently, the ships and men of the United States Navy wrote themselves an epic of undying glory in the liberation of the Philippines, and in the mighty counter-assault on Japan which contributed so much to the ultimate victory. That victory was also the victory of the Filipino people. It was a victory of our common arms and our common aims. But in the deathless operations which led to the liberation, the naval forces of the United States,

in the face of overwhelming odds in the early days, carved, an immortal niche in the military annals of this part of the world.

The American and Filipino soldiers who gave their lives for victory have a common brotherhood with many of our naval heroes who gave up their lives on the unmarked stretches of the sea, that this nation, the Philippine Republic and the United States might grow and prosper in freedom and security.

I have spoken of the Navy's contributions to our common victory in war. Likewise in peace the Navy has served valiantly on shore and on sea to cement our mutual interests, to insure our mutual security, and to draw closer the ties which bind our two countries. The Navy has a long tradition in the Philippines. I know that that tradition will always be maintained in shining splendor.

As an American citizen, I am proud of the American Navy, of its past glories and its present accomplishments. I feel a thrill of pride in every bluejacket, in every officer, in every sleek vessel I see, flying its proud ensign in Manila Bay. I hope that the men and ships of that branch of the armed service will continue to carry on, as I know they will, with their essential missions. I know that the security that they afford both the United States and the Philippines, by the strength and power of their mighty organization, as well as by the traditional courage and heroism which has always characterized them, will always be appreciated by peace-loving men and women.

I raise my hat in salute to those hardy men of the far-flung seas, who protect our frontiers and constitute our first line of defense, the United States Navy!

Secretary Kangleon's speech:

It is a distinct honor and privilege to convey to you, on behalf of the Republic of the Philippines, our greetings and sincere wishes for your continued success and prestige on this memorable day. The observance of this day has linked us to that historic event of Dewey's victory in Manila Bay on May 1, 1898, which marked the beginning of America's experiment in the Philippines.

The maintenance of a nation's navy is as important as its army. Our experience in the two World Wars has shown the important role a navy plays in winning a war fought overseas. No army, however brave and powerful it may be, can hope to win a modern war without the help of the navy. The navy transport the army and sustains it with arms and ammunitions, food and other vital supplies at the fronts.

No people on earth can appreciate the magnificent role played by the U. S. Navy during the last global conflict, better than the Filipinos. The navy operated and maintained the lifeline of the resistance movement in the Philippines against almost unsurmountable difficulties and dangers. I refer to the great work performed by the U. S. Navy's undercraft forces particularly the USS *Narwhal* and the USS *Nautilus* which, during the Japanese occupation, brought supplies to the Guerrillas all over the Philippines. This bolstered the morale of the Filipino people who steadfastly maintained faith in their ultimate redemption by the forces of democracy and freedom. I also refer to the great work performed by the U. S. Navy's air forces which, in the month of September of 1944, bore the initial brunt of the counter-attack and destroyed the air supremacy and exposed to attack the military installations of the enemy in the Philippines. The appearance of hundreds of hellcats, helldivers and wildcats in the air, and their display of aid might brought to the oppressed people of the Philippines hope and confidence and inspired them to new heights of courage. The Filipinos saw in the first aerial offensive the forces of liberation coming to dislodge the brutal enemy in the Philippines. The period between the landing of General MacArthur on the island of Leyte, and five days thereafter, was the most trying of all. On October 24th three naval task forces of the Japanese Grand Fleet coming from North, South, and West of the Philippines converged on the gulf of Leyte to attack the American convoys of more or less 600 ships. Those task forces were destroyed one by one by the great American Armada. The naval battle which took place in the vicinity of Leyte was not only thrilling but also the most decisive naval operation in the Philippines. Had the United States Navy failed in that crucial encounter, the liberation of our country would have been delayed, and many more lives would have been cruelly sacrificed. To the United States Navy, therefore, we of the Philippines, cherish a special feeling of gratitude and admiration.

The war is over. The victory has been won. The Filipinos have won their freedom. But the war has taught us the price of unpreparedness. As a new independent country, preparedness should be our watchword if we expect to preserve our territorial integrity and the security of our democratic institutions.

Our plan for the defense of this country will be coördinated with that of the United States Forces in the Pacific. We may be lacking in material means, but we have the manpower, the proven courage and determination side by side with the United States and all forces of freedom, to defend this outpost of democracy in the Pacific.

On the occasion of the 35th anniversary of the Republic of China on October 10, 1946, President Roxas issued the following statement:

In behalf of the Filipino people, I wish to extend felicitous greetings to the great Republic of China on this its 35th anniversary. The struggles of the Chinese people for national unity and democratic progress have not been easy nor without heart-breaking trials. Indeed, since the founding of the Chinese Republic under the far-seeing statesmanship of Sun Yat Sen, in 1910, China has been subjected to a series of assaults upon its territory and other tensions which have tested the great soul of that nation. That the Chinese people have survived all the crises of the bitter years of the past three decades and has come out of the eight years of Japanese occupation and brigandage bruised, but unbeaten and victorious, attests to the vitality and virility of the Chinese people.

Today China is one of the five Great Powers of the post-war world. In Asia she is the largest power. It is with deep satisfaction that we of the young Republic of the Philippines count on the friendship and goodwill of the Chinese people. Sino-Philippine friendship, being both natural and historic, will surely grow with the years by its own momentum as well as by the compulsion of common needs and common aspirations.

Statement by President Roxas on the occasion of the signing of the Sotto Press Freedom Bill on October 5, 1946:

Today we take a new and pioneering step forward in bulwarking one of the great freedoms . . . freedom of expression. We are granting to news writers and reporters a legally-privileged status in regard to their sources of information . . . just as doctors already have with the confidences of their patients, and lawyers with their clients.

This is a new aspect to the concept of a free press. The original concept emphasized the freedom of the newspaper itself to express editorial opinion without fear of government repression or retribution. The famous case of the Commonwealth of Massachusetts *vs.* Peter Zengler established that freedom irrevocably in the New World.

Now we are granting the same freedom to the individual writer and reporter . . . to report the facts fearlessly even if the source of those facts must remain shrouded in anonymity. I gladly hail this grant of privilege, which places the Philippines in the advance guard of the forces of progressive liberalism. It should and will, I am sure, make the press increasingly useful as a guardian of public morals and of government integrity.

Yet this freedom can be subject to many abuses. As Justice Oliver Wendell Holmes said in his classic remark on the subject, "The right of free speech does not give anyone the right to shout 'fire' in a crowded theater."

I am sure that the grant of this new freedom to the Philippine press will enhance devotion to accuracy, balance and impartiality in the presentation of news. That is the desired effect of such an expansion of freedom's frontiers.

If freedom is a sign of progress, we have progressed as far as any people in the world today. I know of no people anywhere who have greater political and social freedom than we have in the Philippines. To me that freedom is a priceless thing . . . yet many of us seem to take it for granted, although it is a scant year since we knew quite a different state of affairs. I should like to say in passing that the military forces which brought us liberation and struck our shackles from us, are the same which now help to make us secure in our freedoms, against all aggression from abroad.

For a new, free and independent nation such as we are, the knowledge that we are free, internally as well as externally, gives heart and hope to enslaved peoples everywhere.

Senator Sotto deserves all praise for sponsoring and fighting for this legislation. The press itself can take credit for its part in bringing this legislation into enactment. As for me I am proud to sign this bill, as I was glad to include it in the list of "must" legislation for the recent special session.

Inaugurating radio station KZFM, Vice President Elpidio Quirino broadcast the following speech on October 27, 1946:

This is the formal reopening of the KZFM station, which henceforth will be operated under the auspices of our own government. On the basis of an agreement with the United States Information Service, which established the station, its extensive facilities have been turned over to the Republic of the Philippines. We intend to continue the information service which its organizers have been rendering until recently, this time however centering our attention more on local affairs and news for the benefit especially of our people in the far-flung communities. The present lack of means of communication because of the ravages of war makes it imperative that the government provide a suitable means of disseminating information on

the various activities of the government for the benefit of our population.

This is not the first time that the Philippine government has tried to come into closer contact with the people through the widespread coverage of radio. When I was Secretary of the Interior of the old Commonwealth Government, it was my privilege to organize the National Information Board which was similarly dedicated to the organization and healthy development of public opinion in our country through popular understanding of the policies of our Government and an intelligent participation in its various activities. Subsequently the Government acquired and operated a radio station of its own, which prepared and trained our people for the dire emergency of war and which, until the occupation of Manila, steadfastly maintained the morale of the civilian population and instructed it in its duties of national defense.

Now however we face problems which are entirely different in nature if not in importance from the problems which we faced under the Commonwealth and in wartime. As a sovereign people seeking not only our unity and solidification but our internal and external security, we need to keep every citizen of the country in the constant conviction and consciousness that he is, all the time, part and parcel of this community that must struggle hard and indefatigably for our continued national existence and enduring welfare. A spirit of courage and independent self-reliance is not enough. We need intelligent and constant vigilance. That is the spirit which inspires our government—your government—and it is the spirit which should unite our people, especially at the present moment.

The administration is committed to the physical and moral rehabilitation of our country. In the fulfillment of this vital task it needs the coöperation and support of each and every citizen. The people have every right to know what the government is doing and the government has every right to know what the people can do to help the government realize its part of the task. The people have a right to know where the government is leading them and how the government proposes to get there. The government and its citizens must come closer together; they must work as one team if we are to accomplish the tremendous task of rebuilding our shattered economy and recovering our former prosperity and peace.

I should like this station to be the link between the government and the people, between the members of this great national team. Every department of the govern-

ment will be given an opportunity to acquaint the country by this means with its aims, policies, and activities. By acquainting themselves thoroughly with the manifold program which the government has pledged to carry out in this new national endeavor, I am confident that both in spirit and in accomplishment our people will synchronize their activities with those of the government so that our program of strengthening the nation may be fully realized. I am certain therefore that our people will not only listen passively but actively help to make our history a steady progress toward a happy and prosperous Philippine Republic. To the radio audience now listening to me, I want to tell you that that history is our story, the story of our people and our Republic, and with your united coöperation and eternal vigilance, we can make it the stirring and inspiring story of a free nation conquering the future.

Thank you.